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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

950 Yonge Street,
Toronto

on

Friday, September 17, 1965.



VERBATIM REPORT OF PROCEEDINGS

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

--- Meeting held at the Board Room, 950 Yonge Street,
Toronto, Ontario, on Friday, September 17, 1965.

PRESENT:

Professor Ian Macdonald, Chief Economist,
Department of Economics & Development,
(In the chair)

Professor Alexander Brady,
Department of Political Economy,
University of Toronto.

Professor Donald Creighton, B.A., M.A.,
Department of History,
University of Toronto.

Dean Richard Dillon,
Faculty of Engineering,
University of Western Ontario.

Dr. Eugene Forsey

Professor Paul W. Fox, M.A., Ph.D.,
Professor of Political Science,
Department of Political Economy,
University of Toronto.

Mr. George Gathercole,
1st Vice-Chairman,
Hydro-Electric Power Commission of Ontario.

Dean W. R. Lederman, B.A., LL.B.,
Faculty of Law,
Queen's University, Kingston.

C.R. Magone, Esq., Q.C.



Professor R.C.McIvor,
Department of Economics,
McMaster University.

Professor E. McWhinney, LL.M., S.J.D.,
Faculty of Law,
University of Toronto.

Mr. J. Harvey Perry

Mr. Roger N. Seguin, Q.C.

Professor T.H.B.Symons,
President and Vice-Chancellor,
Trent University.

Mr. D. Stevenson) Co-Secretaries
Mr. R. Farrell)

--- At 9.45 a.m.

THE CHAIRMAN: I have circulated around the table tentative agendas for the day, and I would like to welcome you back to this series of meetings.

I have the regrets of several members of the Committee who are unable to attend for a variety of reasons. Professor Conway is pre-occupied with the approval and registration of students at his new Founderer's College in York University. Father Matte has just returned from a Canadian Government Mission in Africa and is on this very day, I understand, having arrived back two days ago, reporting in Ottawa. Professor Meisel was detained by university duties at Kingston, but he just rung off the telephone and had one or two comments to pass along. Mr. Gathercole in all probability will be unlikely to attend today.

I thought we would come here today for a number of practical reasons. We had a lot of paper work perhaps to undertake today in connection with work on the sub-committees, and some of the meeting facilities for sub-committee purposes are a little more easily handled here, although I would say for plenary purposes we are not in any way as graciously accommodated as we can be in the main buildings, but I think we may return

there for other occasions.

Unlike the B & B Commission, I have no intention and see no reason for suspending our operations until after November 8th. I presume you are like-minded in that sense for this non-political body at least.

PROF. CREIGHTON: Is that dependant? Is what you just tossed in there an accurate description of what has happened or is this just a suggestion on your part? I mean, the clause about the B & B Commission.

THE CHAIRMAN: That is just one of those early morning parenthetical remarks.

The next duty is one I regret very much, and that is to announce the resignation of Bora Laskin from the Committee. I read of his appointment when I was on vacation, and was preparing to try and twist his arm in anticipation of his possible withdrawal when I returned, but I learned there was a letter from him announcing his resignation, and he has also written to Mr. Robarts. I was preparing my case in the best legal manner by pointing out to him the precedent of Chief Justice Porter, who is Chairman of the Ontario Advisory Committee on University Affairs, but Bora Laskin felt there is perhaps a greater possibility of conflict of concern between his new duties and our Committee, and he was determined

to adhere to his initial intention. I did my best but, I was quite sure, in an improbable cause. However, I did take the liberty in writing to Professor Laskin -- as he still is, I suppose, until about one hour from now when his investiture takes place -- written to him on my own behalf but also on behalf of the Advisory Committee on Confederation, to offer our congratulations and thank him for his services.

There are several matters that we should consider in this plenary session this morning about our business and our affairs, although I would like to proceed to the sub-committees as soon as possible and make the work in the sub-committees the burden of the work today.

We will be circulating or have circulated around the table this morning, various papers which were given at the Couchiching Conference, some observations on the Couchiching Conference by Mr. Stevenson who was present throughout the week; and before you depart today, I hope that each member will be equipped with the remainder of the draft studies which he has not yet received, that is to say, we sent out those studies which related to your particular sub-committee in the mail, which I hope everyone received, and those papers being considered by the other two sub-committees will be in your hands today before you leave.

One other matter which perhaps I should refer to and which perhaps President Symons would want me to refer to, and that was the note which appeared in the Globe and Mail, I believe, on September 1st or 2nd about the study which President Symons had undertaken for the Committee on cultural exchanges with Quebec, which was followed the next day by an editorial in the Globe and Mail. I do not know whether the cartoon that accompanied it was unflattering or not, but I suspect the intention was.

I will not go into all the details, but it appears that President Symons was first alerted to this by a number of telephone calls from parties saying that they understood that Quebec had just announced an entente or cultural pact between Ontario and Quebec, and that this was based on the substance of the work in the report prepared by the Advisory Committee on Confederation.

I saw this in the newspaper that day again when I was on vacation and I was somewhat concerned about the implications. I do not know if you would care to comment further on it, Tom.

PROF. SYMONS: Mr. Chairman, it was a surprise to me too to see this in the paper and to receive these calls. At that point there were merely, I think, three copies of the report in draft form, and for a moment I was at a loss

to understand what happened, but as far as I can piece it together some of the people in the Province of Quebec, with whom our research assistant and I have discussions covering background information for this report, just were terribly enthusiastic about the idea and delighted by the fact that Ontario might be interested in this, and they just could not restrain their interest and seem to have made comment about the fact that such a programme was under consideration in Quebec City. The reports came from Quebec City and then were picked up in Toronto. It is in that way, I think, that the Toronto press got hold of the information that our Committee was considering or would be considering a report on a possible cultural exchange programme between the two provinces. I think it was just innocent enthusiasm in Quebec City which bubbled over prematurely.

THE CHAIRMAN: Ray, you were on the spot here at that time. Did you have any further observations from the Premier's office?

MR. FARRELL: No. I did not hear anything further about it at all. It was one of those things that flares up and dies away.

THE CHAIRMAN: I did speak to Mr. Robarts about it, both in its own terms and by way of re-examining the question of our position in

public terms, and he re-affirmed to me the position which we held and which we discussed earlier, that we were an Advisory Committee to the government and that any reports came to him and it was then a matter for the government to determine what to do about advice offered or what to do about making public any such reports. As far as this event was concerned, I think we emerged from it not too bruised or damaged.

That concludes the general introductory remarks I intended to make. The second item on the agenda is the Federal-Provincial Conference and the Couchiching Conference. Mr. Farrell and Mr. Stevenson were also present and, indeed, Mr. Gathercole for part of the time as an adviser at the Federal-Provincial Conference in July in Ottawa. I do not think from the point of view of matters of trends and development habits in Federal-Provincial relations there are many things that I would want to pass along to the Committee from that.

The first matter, I suppose, which has been raised so often, about whether the press should have access to these Conferences and the matter of secrecy, I had the feeling that there was not very much went on at the Conference that did not appear in the press. In fact I even thought from time to time that we might have been

further ahead in our office at home in reading about the Conference in the press.

It occurred to me that the real issue here is the distinction that should be made between whether the press should have access to these meetings on the one hand, and whether these Conferences are becoming an executive body in any sense in terms of making decisions beyond the realm of Parliament and Legislatures. This is the point, of course, that is being explored in the paper in the constitutional committee on the Federal-Provincial Conferences.

As you know, the major issue that emerged there was the question of Medicare, and that is now being studied by the various governments, and there will be a meeting of the Ministers of Health next week.

Here again, however, I think this re-affirms the position that a meeting such as that can only be one for discussing common problems and positions, and any decisions would be referred back to the governments concerned before an event of that kind proceeded.

I think I have gathered there and in other conversations in Ottawa, however -- and I think this is relevant to the work of this Committee -- the general re-affirmation of the importance of Ontario taking leadership in these

matters, and the fact that it seems to me that strong positions by Ontario are in fact welcomed by Ottawa as a means of counterbalancing some of the stresses that they are exposed to in a Federal-Quebec sense. We might get a chance over lunch or during the day to talk about some of these matters if they are of interest, but I need not detain you further on that.

However, I did ask Mr. Stevenson if he would care to speak to the next item on the Couchiching Conference, because that was a forum that was timely, a place where a number of the questions we are considering were discussed and a group, I believe, including some of those here, who are very much involved in these questions. Don, do you want to pull up a chair here.

MR. STEVENSON: I had not really expected to say anything, Ian. I have a few notes which I put down which are with the papers that you have, perhaps marking the major points I still retain after a month following the conclusion of the Conference.

There were four or five members of the Advisory Committee there. Professor Fox was a commentator throughout the course of the proceedings. Dr. Forsey and Professor Conway were on the agenda.

Later today I hope that there will be

delivered up some further notes that I took, more descriptive of some of the discussions as they occurred. We tried to get all the papers that were presented at the Conference and I think about five or six are made available this morning. The ones that are not I hope we shall have some further notes on later in the day.

I think the part of the Conference that bore most directly on the work of the Committee was the very first day, when the Chairman was in the chair at the Conference on a session discussing the work of this Committee and its general purpose.

This afternoon I think in these notes I have a page or two of what the discussion was, but I think generally the bulk of the speakers from the floor felt that the Advisory Committee would be performing a much more valuable function if, in addition to advising the Premier of Ontario, it also took over some public function at some stage in its existence, either through the holding of hearings or through perhaps operating like the B & B Commission in its first tour across Canada. These kind of remarks were made by people like Jean Marchand, I guess the two big leading lights in the paper last week, Pelletier and Marchand, as well as several people from Ontario who were general observers.

There was a feeling that Ontario had

perhaps a more important role than any of the other English-speaking provinces, because if there were an effective mobilization of reaction and an independent action of Ontario to the various issues now facing Confederation, stated publicly and particularly by its leaders, that this would perhaps be the most important single method of arresting what seemed to be almost an inevitable progression towards associate statehood, which came out of the rest of the Conference.

I do not think I have much more to add at this point. The other parts of the Conference itself, I think some of the people here will bring them up, and if there is any discussion on that later it might be useful.

PROF. CREIGHTON: We are going to have these notes this afternoon, are we?

MR. STEVENSON: I think so. Unfortunately we have had a problem with our printing that they have left over with about seven branches at the same time, and the papers we hope to have before the end of the day include these as well as some of the extra copies of the papers distributed to those people in the sub-committees.

THE CHAIRMAN: Are there any comments about these general developments?

PROF. McWHINNEY: These suggestions seem to have been strongest from the French-speaking,

matters about changes in the function of this Committee. Have you discussed this question with the Premier?

THE CHAIRMAN: No, but I put on the agenda at the end of the day the item "Future Plans" and I wanted to suggest that, having spent some time today looking at the reports which we have and at the work which we have undertaken so far, we give some consideration to our own interpretation of the most useful future course.

I think in particular -- and I have discussed this with several members of the Committee -- that at this juncture, having undertaken a fairly varied dose of research, we should perhaps be thinking of coming to grips fairly quickly now with some positive recommendations and some advice in the realm of ideas and policy that we can put forward to the Government, and I hope that by the end of the day we might have some suggestions to make to the Premier about our future direction.

PROF. CREIGHTON: Mr. Chairman, you mentioned about our future direction or about the advice which we might have in our present situation. Do you want us to discuss this point next or one or both or what, the advice that we would present to the Government as the result of these studies that have been prepared?

THE CHAIRMAN: Yes.

PROF. CREIGHTON: Or our future direction as a public body?

THE CHAIRMAN: I am sorry -- both things. I think they are all related but I think they are separate questions.

Item 3 in the agenda - Finance. I can report briefly that only this week I have been able to clarify with Mr. Robarts and with the Provincial Treasurer our budgetary arrangements for the current fiscal year 1965-66. That has been concluded to my satisfaction as far as my assessment of what we need for the studies under way and for the work we would do during the coming year.

Also you will recall we had some discussion about what we were -- I won't say what we were worth -- what should be compensated and the basis of remuneration to students, at \$100 a week; to members of the Committee for direct supervision and for direct work on the preparation of the short papers at \$15.00 an hour. In order to make that consistent with the per diem allowance, which we discussed, you recall, on the basis of a full day meeting of six hours, the per diem allowance should be \$90 per day, or for a half day meeting of three hours, \$45 per day, so that really the rate, so to speak, is consistent with the supervisory rate.

In connection with our research programme, there is one recommendation I would like to put forward which would relieve me somewhat, and that is that from time to time I receive suggestions about work we might be doing or studies we might undertake or questions about the rate of remuneration for a programme that might be undertaken by the Committee, not by a member of the Committee itself and not by one of the summer students.

I would like to propose the formation of a small policy research committee whom I could meet with and consult with when these questions come up and if necessary that that committee should have power to act, but that normally these recommendations would come here and save time in the plenary session. Would this meet with your approval, to form such a group? There is one particular problem has come up which I would want that group to treat as soon as possible.

Now, item 4 -- Studies in Progress. There is circulated with the agenda a summary of the work which we have had underway this summer, divided between the short position papers which we were preparing for direct submission to the Prime Minister but for discussion by this Committee, and the basic studies. The first two, by Professor Laskin and Professor McWhinney,

have been received and have been passed on to the Government. Then the basic studies, development of Federal-Provincial Conferences, that is in draft form. I believe, Professor Brady, that in your view it is a draft and would require a certain amount of polishing.

PROF. BRADY: Oh yes. I think it is a preliminary form, I would say, that we feel should be added to, especially in discussing the present status of the Conference. I think Mr. Laskin, who was in your department during the summer, worked on the Conference reports, and I think did a fairly thorough job; but, of course, such reports are only of certain value, perhaps a limited value, in assessing just what the Dominion-Provincial Conference signifies as a constitution today. It is the implications of what he has done that I think need to be expanded.

Incidentally, commenting on that, this is a problem, I think, that confronts the sub-committees. Except for short papers, the reports that we have received, we have received only this week. As a matter of fact, this, what I call preliminary report of the Dominion-Provincial Conferences I received only this week, and some section of it has not yet come off the mimeographing machine.

I do not know what the position of the

rest of you is, but it is difficult on such short notice to give any very careful study to the papers and be able to discuss the papers with any assurance. So I suspect our stratagem in committee has to be almost of a tentative character. That is my impression, at least, looking at some of the reports.

PROF. McIVOR: May I just take up for a minute, Mr. Chairman, the matter of these short papers. As a point of committee procedure, these have been prepared and already submitted to the Prime Minister. Have they been discussed by the appropriate sub-committee before they were forwarded to the Prime Minister, or are they forwarded simply as the position of the individual or as the considered position of this Committee, or what is the status of these short papers when they go to the Prime Minister?

THE CHAIRMAN: Well, at our last meeting I believe the decision was that if the Prime Minister of the Province expressed an interest in having a report in a short paper on a certain theme, that this should be submitted by the Chairman directly to the Prime Minister. However, it would be made clear (as it was in the case of these two papers) that they represented the paper from the individual, and that in the course of time, if this were a matter of continuing interest,

that the paper however would be discussed by the sub-committee and any recommendations that might emanate from it would be determined by the Committee as a whole and submitted to the Prime Minister.

So in other words the distinction, I suppose, is simply between this as a private piece of advice on a subject, and a recommendation of the Committee which would have to follow.

PROF. McWHINNEY: I do not think either of the papers, to be frank, makes a strong recommendation. When I wrote my paper (and I don't remember discussing it with Prof. Laskin) I felt it probably would be submitted to the Prime Minister, since he is interested, without going to the sub-committee, and I felt it my obligation to canvass the policy alternatives to clarify the policy for alternatives, to give sufficient background position for the Prime Minister or anybody else to make an informed decision, but I do not think in my paper I made a recommendation. I was at some pains to avoid this. If you wish recommendations you can find them in my other writings and I would be happy to make them, but at this time I certainly tried to avoid recommendations. I feel this is true with Professor Laskin's paper too.

I do not think in other words, there is any danger of, say, an individual's position paper

being represented as the Committee viewpoint.

I suspect most of us reporting on this basis, would regard our function as to explore the policy alternatives, to give the background information.

PROF. CREIGHTON: I think it was stated explicitly, Mr. Chairman, at the last meeting that the papers would be going to go directly to the Prime Minister on behalf of the individual alone; but I also assumed the sub-committees would discuss these papers, possibly today.

THE CHAIRMAN: Oh, yes.

PROF. McWHINNEY: As Mr. Brady says, the time has been short. In fact, I only got mine yesterday.

THE CHAIRMAN: As far as these short papers are concerned, they have, as I have said, gone to the Prime Minister. I have not even discussed them with him, except to say that these papers would be subsequently discussed by the Committee, and any recommendations that might flow from them would be a separate matter.

Now, as regards the point raised by Professor Brady, which is well taken, I am aware of the problem there, and I do not wish to excuse it in any way. This applies also to papers on the economic questions which were undertaken here, and these were, as you know, largely undertaken by

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students working in the Department here in the summer. Their work concluded, for most of them, about five o'clock last Friday afternoon. As one might expect, some of them finished their work in more polished form than others. I think, therefore, that we have to treat these drafts as very much preliminary drafts. I thought it was important that we meet nonetheless and at an early date to establish our course for the fall and the winter; also to have the sub-committee meetings to discuss these drafts and to give some direction as to the places you would want them improved and would want further work done.

I doubt very much, therefore, that we can be in a position, for these practical reasons, to produce anything in the way of firm recommendations, but I would hope in a month's time at our next meeting that we would be in a position to have a fairly coherent set of recommendations from them.

By the same token, I know that those students working on them did not consult as much or at all with members of the Committee as they might have, but perhaps the most useful contribution of the members of the Committee can come now that the basic material has been assembled. I think this has been a weakness in it all right.

DR. FORSEY: Mr. Chairman, if I may revert

for a moment to the short papers, I am sorry mine is not done. I will guarantee to have it well before the next meeting or, in the R.B.Bennett context, perish in the attempt.

The main point I want to make is I do not think that in the nature of things my short paper can be of the same kind, let alone quality, as Prof. McWhinney's or Mr. Justice Laskin's.

THE CHAIRMAN: You mean it cannot be as short.

DR. FORSEY: I hope it will be shorter, but I am afraid that it will not be as admirably objective and impartial as giving background material and that sort of thing. I am afraid it will contain some very clean statements of opinion.

PROF. CREIGHTON: Hear, hear.

DR. FORSEY: If the other thing is what is wanted I am afraid I shall have to bow out. I do not think in the nature of things you can do the same sort of thing.

DEAN LEDERMAN: I think it is all grist in the mill. We have a lot to do. We need all kinds of approaches to things.

THE CHAIRMAN: I do not think there is any wish to suppress the fervour of any member of the Committee.

PROF. FOX: Least of all Dr. Forsey.

MR. PERRY: Not only any wish but any

possibility.

DR. FORSEY: You will be surprised how docile I am becoming in my old age.

THE CHAIRMAN: Dean Lederman, would you care to speak of the students under your jurisdiction?

DEAN LEDERMAN: Yes, Mr. Chairman. The two things which fell to me to obtain students to accomplish during the summer: Proposal for the study of Constituent Assemblies in Constitutional Policy, or a Study of the Senate and Second Chambers.

I was able to obtain one good student, an Honours Graduate in History with very high standing at the University of Saskatchewan, who is taking law in our Law School at the present time. I started him on the Constituent Assembly problem, because it seemed to me that was the more urgent of the two. We never got beyond it this summer, and we never got to the Senate. Mind you, we soon got beyond the Constituent Assembly idea too. What we were really concerned about is the processes of constitution making, whatever they are. If you take the narrow definition of the words "Constituent Assembly", there is not much to write about or to research, so what Mr. Mesbur did was to do a study of constitution-making processes in the United States, Australia, India, Pakistan, Malaysia and the West Indies. These countries were

chosen because even in the United States what went on, went on in the British tradition and the English constitutional tradition. Also several of these countries have the language and racial differences to deal with.

What Mr. Mesbur did was to prepare basic papers on each of these countries, and then he prepared a summary in which he, from the historical evidence, drew together the lessons as to what had happened. I have the summary paper here. It is about 9,000 words and is in finished form.

The others are in relatively finished form, except they have to be typed by a typist, and the typist's misunderstanding of Mr. Mesbur's writing will have to be corrected by him, and we were not really able to conquer the typing problem this summer.

We got this paper done. What he has done is to deal with the political and constitutional background in the federal constitution-making. Just to mention his principal headings:

"Constitution-making as an amendment process"; "the use of committees of inquiry, commissions and teams in the period before final constitution-making". This is a favourite approach of Great Britain, it turns out, and there are a lot of interesting things in that respect.

"Preliminaries of Constitution-making" and, of course, when we are talking of re-making our constitution, the lessons of these things are interesting. "Creation of Constitutions by Legislation and Order-in-Council"; the "Constituent Assembly as a constitution-making Device"; "The Use of Referenda and Plebiscites in the Ratification of Constitutions".

So if Mr. Diefenbaker really means what he says about a grand constitutional convention, I think it may prove to be very useful as background, what has happened in other places.

It may be that the joint efforts of many people in many governments will get us into the position where some kind of constitutional convention is going to be called, or at any rate is going to be discussed very actively.

So the one paper is done and no one has seen it yet, except myself, because it was just finished the other day and it was too late to mail it here, so I have a final copy here which we will leave with you of the summary paper, and we can have the individual papers prepared too in due course. They are finished, and we will have to decide today whether you wish me to go on with the second chamber and Senate study and have that done. We did not get anything done on that this summer. Actually this study of these five countries, then

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to draw out the general lessons from it, filled in all the time this young man had this summer. He got married on 17th August so naturally he withdrew a little earlier than some of the other students.

MR. MAGONE: Other things to think about.

THE CHAIRMAN: If as a result of this study we should persuade the Prime Minister of Ontario to change his view about constituent assembly, no one would know whether we had done the job or Mr. Diefenbaker.

DEAN LEDERMAN: I am against the grand constitutional convention myself, and I think this study will support that. As I read it, it would support that position, but this may be because I am against it to start with.

THE CHAIRMAN: Thank you very much, Dean Lederman.

The next three of "Economic Regionalism" and "The Economic and Financial Implications of Opting-out" and "Problems of Nationally Co-Ordinated Economic Policies" were prepared by summer students in the Department of Economics and Development, and their papers are already now available in draft form.

MR. STEVENSON: Not the complete (e).

THE CHAIRMAN: That is right.

MR. STEVENSON: Just one section. Another section will be ready in the next week.

THE CHAIRMAN: As a matter of fact, all of these are matters that are coming up as fairly pressing matters in Federal-Provincial economic and fiscal proposals. Again they are not as policy as they should be but we are preparing now staff to do a better job I think.

If you read the Ontario submission at the Federal-Provincial Conference last summer which I sent around to you, you will recall perhaps that the last section of that submission dealt with the question of the Federal-Provincial secretariat, and the Prime Minister of Ontario said that he preferred to establish facilities here for the conduct of this work. Consequently we are preparing a secretariat for the co-ordination of research and policy in my own office.

Some of this work has been started by the summer students, and we are now looking for staff to man this operation, so that I think our administrative and working arrangements will be very much better in a short while for these studies.

Now, (f), Professor Meisel says that that work is now concluded and he thinks it is extremely interesting, the review that has been undertaken of the briefs of the B & B Commission, and has promised that that will be in our hands shortly.

Father Matte has apparently had a number of people working on his project, and he said he

would have had it in time for this meeting, but having been called to Africa he has not had a chance to get hold of it since he returned. However, I understand it also is ready.

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Now, President Symons' report is circulated and is a very thorough and imaginative piece of work. Tom, are there any other things you want to comment on there in connection with the way the work was handled?

Prof. SYMONS: I was fortunate, Mr. Chairman, in obtaining the assistance of a very able student who graduated this year in Honours History and Modern Languages from the University of Toronto. He spent a fair amount of time this summer as my research assistant, and we organized together a programme in which he did a fair amount of spade work. I did some but he did much more and visited in total some 40 people who have particular interest and experience in cultural activities both in Ontario and in Quebec.

On the basis of the information and the opinions which we were able to gather, I then prepared the report which is now complete, though a draft completion, and I think it is something that does make specific recommendations and does something that perhaps our cultural and educational sub-committee might be able to look at later today,

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and if the proposals have merit, this is something on which our Advisory Committee might wish to make some decisions and recommendations today.

THE CHAIRMAN: Thank you. Paul?

Prof. FOX: I could be brief, Mr. Chairman. The Committee will recall that we were to take a look at the teaching courses in the French language in the Separate School system and in the public school system.

Through the good offices of Mr. Seguin, we acquired the services of Mr. Leduc who is a teacher in the public school system but both French and English speaking, in Ottawa. He has prepared his report on the teaching of French, quite a factual report, but there are opinions given also. He has prepared a sufficient number of copies, although there was a slight delay because of my holidays. They were delivered to Ian on Monday. I don't know whether they have been distributed to members of the Committee or not.

I should explain in this context that Mr. Leduc, who was marking papers, was in Toronto through the summer. We had some correspondence, and then he came to see me and we had a long talk when I explained to him what the Committee's feelings were, and he prepared his paper. My understanding was he was going to prepare a draft for me to look at before he put it in the complete

form he did, but however he completed it and then submitted it in a mimeographed stapled form and I did not have an opportunity to look at it before it was presented in this form. So there was not the supervision there might have been, though I think it is a very good presentation.

Now, that is in a form that we might want to consider in sub-committee as a draft. There is certainly some extremely interesting materials in it and a great many facts and figures that we need to think about.

As for my part of the work, which was to look at the teaching^{of}/courses in the French language in the public school system, I have not gone on with that, because I had to complete a book which I did not finish until the first week in August, so we have not proceeded with that. If the Committee is still willing, I would be happy to go on with that now. I think that completes what I have to say.

THE CHAIRMAN: Don, would you like to comment on the next?

MR. STEVENSON: Yes. The last item is a study which perhaps was not mentioned in the June meeting as definitely being undertaken this summer, but John Laskin was one of the students in the office during the summer who, after completing part of his first draft of the other

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study, has been working on a survey. So on August 18th a letter went out to all Deputy Ministers and to the administrative heads of various agencies in the Federal Government, under the Chairman's signature, which we may have distributed by the end of the day. It spoke a little bit about the function of the Committee and particularly the function of the Cultural sub-committee, in the following terms:

"The Cultural sub-committee's main
"concern is the relationship between
"French and English Canada. For its
"discussions on this subject, it needs
"to have as much factual background
"as possible of current practices and
"policies within the Ontario Government
"and its agencies. To this end, the
"Committee has asked that a background
"report be prepared on the present use
"of French for administrative purposes
"by Ontario Government departments and
"agencies."

Then it follows on asking for some indication of the use of bilingual personnel, bilingual forms, correspondence and the rest of it, and people from various departments were asked to get into contact with Mr. Laskin and myself.

The situation is that we now have

interviews completed by Mr. Laskin with about ten or twelve departments and agencies, and the results of those interviews have been written out for seven or eight of them. I think this should be finished in its final form by the next meeting, but we may have a preliminary report on the first seven or eight interviews by the time the Cultural sub-committee finishes its sittings today.

THE CHAIRMAN: I see coffee is getting cold. May I suggest the following timetable for the balance of the day. I think we might have coffee now, and then proceed directly to sub-committees.

You will see other suggestions at the bottom of the list of studies. I have had a number of discussions and a number of suggestions put to me which suggest that these two points are of considerable interest at this moment.

I would like to suggest that the Cultural sub-committee, although this first question of the national capital area has implications for all groups, I think we might make a beginning by having the Cultural sub-committee, if you would, give some attention to that bit and suggest where we might go with it from here.

PROF. McWHINNEY: Can you ask the Cultural sub-committee to consider a thing that

1. The first part of the paper

is devoted to a general

discussion of the problem

under consideration.

The second part of the paper

contains a detailed analysis

of the various factors

which influence the

results of the experiment.

The third part of the paper

is devoted to a comparison

of the results with those

obtained in previous

experiments.

The fourth part of the paper

contains a summary of the

conclusions.

The fifth part of the paper

is devoted to a discussion

of the results.

The sixth part of the paper

contains a summary of the

conclusions.

The seventh part of the paper

is devoted to a discussion

the B & B Commission does not seem to consider -- what legal system would apply to the French Civil Law.

MR. PERRY: I will contribute a report published by the Government of Nigeria over my name on this subject. I had to review this background before they set it up. I think I advised them not to but they set it up as a separate area anyway.

THE CHAIRMAN: I am thinking here not so much of the character of the problem as the procedures that we might embark upon to study this question, if you wish to study it.

DEAN LEDERMAN: The question of the expropriation powers of the National Capital Commission was before the Exchequer Court and the expropriation powers were upheld there, and there is an appeal pending before the Supreme Court of Canada. So I think we have some help too with the constitutional issue coming up.

PROF. CREIGHTON: Fascinating study.

PROF. FOX: May I make a suggestion?

THE CHAIRMAN: Yes.

PROF. FOX: If the sub-committee on Cultural matters is going to consider that about this first item, I wondered if we might borrow Mr. Perry for that period; I wonder if it would not be fruitful to have him sit in with us while

we are discussing that.

THE CHAIRMAN: Fine. I am sure that would be agreeable. As far as the work of the sub-committees today is concerned, I think three matters are probably to be considered. First of all, what recommendations, if any, you wish to make from the existing material; secondly, general views about our future course and procedure. Those are the two points that we discussed earlier, Professor Creighton.

PROF. CREIGHTON: Yes.

THE CHAIRMAN: Then thirdly, any advice you might have from the methods we followed so far about the best procedures for having studies done, reported back, preliminary work done and so on.

In other words, it seems to me we are going to have to do a little more work on a continuing basis in sub-committees, if we are really going to develop these matters.

I accept that the work we have been handed today, the papers we have been handed today, is perhaps not in a manner that can be usefully treated by the plenary session.

Is it necessary that some of these sub-committees meet quite regularly as a continuing seminar to generate ideas both about the research and ideas that can more quickly be infused into

the government process and government policy-making process?

In other words, I feel myself, and I think some of you do too, that we have not quite got our machinery in a manner that we would like to have it.

PROF. BRADY: Another question, Mr. Chairman, may be whether our Committee system is the best instrument for discussing some of the problems where the issues, as it were, overlap -- let us say culture on constitution, constitution on culture and so on. We designed, I think, these sub-committees originally to start -- first, indeed, to discover what would be the appropriate topics or subjects that the Committee might deal with, and the Committee did that job and did it quite well, I think; but when it comes to discussing specific aspects of the existing federation, well then, a rigid division between culture, let us say, and constitution is hardly applicable always.

THE CHAIRMAN: Yes.

PROF. BRADY: Maybe in some matters.

PROF. McWHINNEY: I also think, in the same line, it is the function of the sub-committees to explore, if you wish, the technical information, and come up with policy alternatives; but I do think, as a public lawyer, that the policy choice is one which is perhaps even better made by

non-lawyers among the constitutional alternatives.

In a way I would almost think it a great advantage in having plenary sessions to consider the sub-committee's recommendations. For example, on both the treaty and the court matters, it seems to me non-constitutional is quite as valuable as the constitutional once you have got over the technical problems of what choices you have.

THE CHAIRMAN: I hope we can have a clear view of this by the end of the day.

DEAN LEDERMAN: Mr. Chairman, may we count on the third Friday of the month as the regular monthly meeting? This is what we have been doing so far.

THE CHAIRMAN: So far as I am concerned, if that is still agreeable.

DEAN LEDERMAN: I just want to make sure of that before I forget it, because we all have commitments and we can keep this clear if we just know.

THE CHAIRMAN: I began by calling this meeting today, and I presumed we would continue on the third Friday of the month.

DEAN LEDERMAN: That would be 15th October then.

THE CHAIRMAN: I think we should just block that out for the year, either for plenary or sub-committee purposes, on the understanding

that all will not always be able to attend.

I think it is better to have a regular day when we muster as we can.

MR. PERRY: On the question of procedure, Mr. Chairman, are we starting with a blank sheet or is there some logical process which we may have to have in mind from which we would be considering departures? I had assumed that the sub-committee would vet the papers which had been prepared in this area, and that when it had done so and devised whatever recommendations it felt were appropriate, that these papers would then be circulated to the whole committee and, following reading, that there would be a discussion of the papers and the recommendations. Is that the sort of thing we have in mind as a general approach, and what we really should be considering, whether this is a good approach or what departures there should be from it.

PROF. FOX: May I suggest that we discuss that in our sub-committees now as we break up, because the smaller groups have been a more or less effective method of discussing, and we can have the reports back to the full Committee.

PROF. CREIGHTON: Isn't that the problem? Why not divide the general Committee into three distinct committees, not particularly for particular purposes but each Committee to review all the

substance.

THE CHAIRMAN: I am sorry, that is what I had intended.

PROF. CREIGHTON: And these will not be divided as they have been, but a mingling of people who are interested in all; each one will have a mingling of people interested in all subjects, who will debate and consider all problems. If we are doing that concurrently, it will save an endless amount of time. Then you can come up with conclusions from each Committee, which in a great many cases will jibe, and you will only have the contentious points to argue out in full committee.

I do not want to appeal to the long experience I have had of these matters, but I was on an advisory committee which was a very large body of twenty-four, and this is precisely what was done, each committee distributed among people who are supposedly learned in the sciences or arts and so on, but mingled.

THE CHAIRMAN: I agree this is the approach for the future. For the moment we have, however, circulated the papers on the basis of the existing committees for this day. Had we not better continue with those studies?

PROF. CREIGHTON: Yes, indeed.

THE CHAIRMAN: Having concluded all of

those, establish ourselves in that manner.

PROF. CREIGHTON: If everybody thinks this is advisable, it is a possible way of doing it.

THE CHAIRMAN: Fine.

--- The Committee broke up into sub-committees at 10.45 a.m., and resumed in full Committee at 3.30 p.m.

THE CHAIRMAN: I guess we can turn now to item 6 on the agenda -- future plans -- which I trust are now crystallized after this energetic day. I confess I am not quite certain of the best way to proceed at this juncture to avoid going around in circles of ever-increasing size, but perhaps we might just run through the committees in order to try and bring matters to a head. The Constitutional, is there a spokesman for the Constitutional?

DEAN LEDERMAN: I acted as chairman today, Mr. Chairman, so I will try to indicate our consensus, and my colleagues can correct or amplify or add.

We had three studies before us. We dealt with the first one of Dominion-Provincial and Inter-Provincial Conferences, and we felt that the paper prepared by Mr. John Laskin was good as far as it goes, but that the main thing that is missing is the information that would come only from personal interviews with participants in these

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conferences, and this young Mr. Laskin was not in a position to do. We felt that the study needed to be filled out, threshed out with this kind of information, and that it would take a very senior person to do it, to get the confidence of the people who participate in these conferences and get access to them and get this kind of information from them. Dr. Brady has offered to do this and to explain the study with the results of sampling the information which, as I say, we think can only come from the public men who have participated, highly paid civil servants who have participated in these conferences.

Then I think I can add that on the whole we are very uneasy about a big part being played in the Dominion-Provincial Conference, and we think that the position the Ontario Government is taking against, for instance, a permanent separate secretariat for the Dominion-Provincial Conference, is the correct one; that what is wanted is a confrontation between proper officials of the respective government departments in the provinces and in Ottawa, depending on the topic dealt with; and a proper refinement of this is to have a department of Dominion-Provincial relations in Ottawa or in the respective provincial capitals to provide such within the provincial government apparatus or federal government apparatus in

accordance with what we think our long-standing traditions of representative government and responsible government imply that this is the way we should do it; and that the Dominion-Provincial Conference, if it gets to be more a Conference, a real decision-making executive body of some kind, will be somewhat irresponsible. This, we fear, is the way the Dominion-Provincial Conference might go if it were allowed to grow and grow in powers, size and apparatus. I do not know whether I have put that very well or not, but this was our reaction in considering the paper on the Dominion-Provincial and the Inter-Provincial Conferences.

Then we came to the paper on treaties and provincial-treaty-making power. Here I will just say two things. We felt that here again, as good as Professor Laskin's paper was, it needed filling out and supplementing in some respects. In particular we needed some more detail of just what sort of agreements provinces are making. All the provinces are making a number of agreements on their own with States in the United States usually, or with perhaps other countries (I am not sure); and there is quite a complex area of provincial action, across boundaries, by no means confined to the Province of Quebec, which we ought to explore. This sort of thing is going on in considerable volume and quite properly, I think.

Quebec's constitutional experts and international law experts are now pointing to these things and saying that they mean that they have implications, which we doubt they have; but until you get the facts about how much of this sort of thing is going on in Ontario and in other provinces, at least get a sampling of the facts, then it is pretty hard to say to them: "Well, certainly these things are going on. There are agreements about Montana trucks on Saskatchewan roads and so on, but this does not mean what you say it means. It does not mean the provinces have international personalities".

There is a big field there which needs more information, and then there has to be attention paid to what it implies, to the implications of this type of activity by provinces. We do not think it has the implications the Quebec people would like us to think it has.

On the whole, I think most, if not all the members of our group, were satisfied that the full-fledged treaty-making power should be in the hands of the federal authorities -- that is, at least you could not make such a treaty without their concurrence, and treaty implementing, of course, is dealt with by the Labour Conventions case.

If there is any rush for the Advisory Committee to take a position on treaties, we feel

we could do rather quickly, but if there is no great rush about this at the moment we think it would be better to take a little more time to express what we think is the right case in proper and carefully chosen words, and also to document it a little more than it is documented at the moment.

Then we come to the paper on the Supreme Court, which raised the issues concerning the final tribunal of review and interpretation in the country. All of us feel this is very important, and some of us that it is the most important point of all, at which to make a stand in favour of things pretty much the way they are. There are some adjustments one could make here and there, but I myself would not give any ground in the way of a major concession on the status of the Supreme Court as the final judicial tribunal of review, as the tribunal which has the last word on what the constitution means, pretty much as it stands now.

One could have some specializing in the way in which Professor McWhinney suggested in his paper, but we would have to be very careful about that, and be very careful that the Supreme Court itself would control and ensure that all cases involving civil rights or constitutional issues could get through to the Supreme Court itself.

Again there are further studies that could

be instituted to document this position a little better, but I think I am correct in saying that we are all prepared to maintain the status quo pretty much with respect to the Supreme Court, certainly in its essential powers and to speak the last word on the meaning of constitutional law.

Now, the rest of our time, Mr. Chairman, we devoted to discussing the points you raised about the procedure of the Advisory Committee. Would you like me to state our views on that now or do you want me to leave that?

THE CHAIRMAN: I wonder if it might be preferable to divide it, so to speak, between what we do about what we have done so far, and then treat each of the committees on that and rather clear the ground and reach a consensus and then go on to the future. May we stop at that point, then, because I think perhaps there could be some discussion now about these practical arrangements for extending the studies or taking some position on them. We might have any discussion of them now.

MR. GATHERCOLE: Mr. Chairman, I am a little in doubt as to the position on the constitution itself. I understand there has been a letter outlining the position the sub-committee took on the Supreme Court, but has it reached any conclusions on the form of the major divisions

in the constitution itself, or is there anything being done in that connection?

DEAN LEDERMAN: We have not engaged in any overall consideration of the substantive divisions of the British North America Act at this point.

PROF. McWHINNEY: No, the theory of the constitution, which is in a way what so far has been verbalized. We have not even thought of this, I take it perhaps incorrectly, but we operate on the assumption this morning that we should consider the material we have before us, which was treaty-making power and Supreme Court.

Bill has presented the final conclusions of really a very vigorous debate in which I think these conflicting conceptions of the constitution were well represented.

PROF. CREIGHTON: You will remember, Mr. Gathercole, that these were presented to us at the last meeting as subjects in which it was possible that the provincial government might require an early recommendation from the Advisory Committee.

THE CHAIRMAN: I think it is my feeling that in view of what has happened to the amending formula, and in view of the discussions that are likely to take place in the next little while, we should perhaps consider how we are going to tackle the question of the constitution under the B.N.A.

Act. Perhaps this is something that comes out of the next part of your Committee.

DEAN LEDERMAN: Well, we did discuss briefly the paper, which has not been circulated yet, on the constitutional amendment in other countries, which was prepared by a student this summer. We realize that the Fulton-Favreau formula has come unstuck or may very well come unstuck, and that the whole question of what is substituted for it in the way of constitution-making or amending provisions is upon us and may be upon us, but we did not make any plan about how to tackle this and perhaps we should if this is of some urgency.

PROF. CREIGHTON: Mr. Chairman, we have not discharged our original agreement, which was to cope with this business of the constitutional convention.

THE CHAIRMAN: Yes.

PROF. CREIGHTON: That is what we are levelling down at the moment, and that was put forward as the immediate requirement.

PROF. McWHINNEY: We responded to what at the end of last spring were considered the three subjects the Premier might have urgently to consider. The conclusions we reached really were what I would call politically determined legal considerations.

For example, I myself think the Supreme Court could be substantially improved by specialization along the lines indicated in my paper, but our conclusion of the status quo was a political determination on the basis of legal -- not party political, but the policy determination on the basis of considering legal decisions as to what you know is likely the best to maintain the fabric of the constitution, of judicial review; but it is true this position presupposes ultimate positions in our picture of the constitution, whether you have associate states within it, or whether you have a pluralistic system and so on. We did not have to consider this issue, and I take it the Committee as a whole, we would wait on their advice as to whether they would regard it as a priority subject to institute. Would you say so?

DEAN LEDERMAN: I would say it is something that we might well get to by our meeting next month. By that time the background material would have been circulated.

PROF. BRADY: I wonder, on the Supreme Court, whether it is possible, looking at the question of whether the range of judicial activities that the Supreme Court now exercises, may not be restricted to lend more importance to the constitutional aspects of it, or is it possible to

make a distinction there? In other words, you have a great variety of cases for hearing before the Supreme Court.

PROF. McWHINNEY: This is a most important position between greater specialization and the present "fruit salad" type of jurisdiction you have. As the American Supreme Court has done under the Judicial Act of 1925, by giving the Supreme Court greater discretionary control over its business, this would be a happy compromise and one indeed frankly that I would recommend, quite apart from B & B, that the court would have.

I think it is implicit though in the paper I wrote, if I didn't mention it, and it is a thing I mentioned on other occasions and I am sure Bill has discussed -- the issue of the internal reformation of the court. You can make a case of this independently of the B & B Commission for improving the court's work, speeding up its efficiency, better facilities for the judges. In other words, B & B has added an element of political urgency and perhaps a somewhat pointed recommendation as to solutions of what has become a general problem over a period of years -- overwork of the court.

PROF. CREIGHTON: There might be a Civil Law division, Common Law division of the court, and civil rights and constitutional, which would be the old court as originally formed.

DEAN LEDERMAN: In fact I would think the additional, increased work load is going to force specialization on the Supreme Court.

PROF. McWHINNEY: It must at the minimum get the discretion to reject or accept cases on the basis of their importance, or else it has got to have some sort of jurisdictional limitation.

PROF. BRADY: They now are compelled to handle certain cases, are they not?

DEAN LEDERMAN: Over a certain amount, there is a right to go to them.

PROF. McWHINNEY: Yes, the court, by comparison, gets about four thousand matters a year of which it takes eventually about two hundred. This is the result of the discretionary procedure certiori and the court's own control over cases according to their importance, so it is not unimportant issues under this certiori.

DEAN LEDERMAN: The important thing to me, no matter what form of specialization and limiting jurisdiction was adopted (and some of it would be) things of that kind would be essential anyway, that the Supreme Court itself should control what gets through to them in the way of constitutional cases and what you might call civil liberties cases. They would be able to control constitutional cases and Bill of Rights cases. In other words, it has the last word about what gets through to them.

You can always apply to the Supreme Court for permission to have a certain case before it because you say that it is a constitutional issue, and if the judges agree with you you can go ahead and no one stops you.

As long as that is the position, I would not be uneasy about any sensible scheme of specializing or limiting jurisdiction because of types of cases or because of volume of work.

PROF. CREIGHTON: We are all doubtful of any specialization with might weaken the ultimate control of the Supreme Court as presently constituted over constitutional and civil liberties cases.

PROF. McWHINNEY: The doubt is policy rather than legal. It is quite clear you can find a perfectly adequate formula by separating the jurisdiction on this basis. I think our general conclusion is that the status quo was really the conclusion; that since the main nub of the criticism now coming from our French-speaking colleagues is really over political power, voting rights of the court on a 50/50 proposal, that it might be better to hold the line; but apart from this issue I certainly feel the court would be considerably improved by specialization and other internal changes, and this may have to come anyway.

Would you not agree, Bill, though, that

under present conditions the 50/50 business represents such a substantial forward challenge that the holding the line you referred to becomes a policy?

DEAN LEDERMAN: I would not be satisfied with any policy, whatever formula of words were used, for screening the cases to go to the Supreme Court unless the Supreme Court itself interprets that formula and has the last word upon what the formula means.

PROF. McWHINNEY: This was a federal judicial body. Yes, I think this is in fact the practice in other federal states where such a division exists.

MR. MAGONE: That in itself means an implication of the issues that go before the Court.

PROF. McWHINNEY: Including the jurisdictional issue, yes.

MR. MAGONE: I mean, the full Court would have to be convened to hear these applications. It means a duplication of cases.

PROF. McWHINNEY: Besides mixed jurisdictional issues.

DEAN LEDERMAN: It might be done in chambers, I suppose.

PROF. McWHINNEY: I understand some continental systems have a superior tribunal to decide conflict of jurisdiction cases, usually

composed of by bringing together officers from various federal courts, but in either case the principle is clear that federal instrumentality must retain the decision-making choice of allocation of jurisdictional competence. I think we are 100 per cent agreed on that.

THE CHAIRMAN: I think the secretariat would have the drift of what practical arrangements are required now from these items, if there is general concurrence with Professor Brady proceeding to see people who can give direct experience on the question of Federal-Provincial Conferences, for us to do some polishing up on that paper, to embark upon practical details, and cataloguing of the treaty or foreign relationships that exist.

PROF. CREIGHTON: At least in category, Mr. Chairman. We have some idea of the varied nature of these enactments.

THE CHAIRMAN: As to the Supreme Court paper, there seemed to be less consensus, I gather, about the stand or at least the position that they might want to emerge.

DEAN LEDERMAN: No, I think there is complete consensus on the essential thing, that the present jurisdiction of the Supreme Court of Canada in the sense that it has the last word on the meaning of the constitution, particularly the federation parts of it, and the civil liberties, that

this is the place to make a stand if there is any place at all where English Canada makes a stand. If that was not clear before, I would like to make it clear now, that we are agreed on that.

DR. FORSEY: May I venture to say -- not merely where English Canada makes its stand, because I think it might conceivably be it would be protection of the civil liberties of everybody, French Canadian and English Canadian in the Province of Quebec. I lived in Quebec in the day of Mr. Duplessis, and I thank God for the existence of Dominion courts, Dominion judges, I mean, and the jurisdiction of the Supreme Court of Canada, because if we had been left to the provincial magistrates of the day I do not know what would have happened to us.

PROF. McWHINNEY: The areas of research indicate this (I think perhaps, Bill, we did not make this clear) from your areas of re-examination, if you wish, of the past work of the Court, that on civil law and criminal matters, in fact, if one is making a case for maintenance of the jurisdiction, even though ^{one} is clear by the evidence in the past, it is helpful to have the full support, and we would suggest there might be studies of the respective roles of the civil law and common law judges in both civil law matters and in more general matters. This could be initiated without any

difficulty, and I think we agreed to bring it to this Committee to decide when and where.

THE CHAIRMAN: All right, I think I am clear on that now. Then if we might move on to the economic and fiscal, Professor McIvor.

PROF. McWHINNEY: Is this to make a decision on what George Gathercole raised, the issue of general ---

THE CHAIRMAN: I thought we had deferred this to consideration of future plans.

PROF. McWHINNEY: As you wish. I simply had not noted the section.

MR. GATHERCOLE: Mr. Chairman, if any progress can be made in the course of the next month till we meet again, I think that progress would be all to the good.

THE CHAIRMAN: Let us come back to that one in our additional plans. If you can make order out of our chaos ---

PROF. McIVOR: This is asking a good deal, Mr. Chairman, but it has become apparent to me that we in the economic and fiscal committee, have made considerably less tangible progress, I think, during the course of the day than our constitutional friends appear to have done.

We have examined these several working papers that were recently put before us dealing with such problems as economic regionalism,

provincial purchasing policies, the economic significance of opting-out arrangements and so on. I think really the only point we have come to is simply a re-affirmation of the difficulties of arriving at some specific recommendations to put before the Committee.

Our working papers require some further polishing, but I think what is quite clear is that the sub-committee is going to have to give a good deal more time between now and the next meeting of our Committee before we can be in any position to make even tentative recommendations of the sort that you have been suggesting in your area.

I could just add here in this connection -- and I think I am speaking for all of us -- that our experience today suggests that with respect to Professor Creighton's suggestion this morning about the inter-sub-committees, we of course concede the inter-relationships in these various areas and the necessity of the initial recommendations of these functional groups being subjected to a broader evaluation, but I think one thing that is clear is that these things have to be given a good deal more attention from the sort of purely technical point of view. Then we come forward with some recommendations, either to a more broadly based sub-group or to the full Committee (I do not know which) but I would suppose that any recommendations that come

from the three sub-groups are going to have to be taken to a considerable degree on faith by many of us who, on the basis of having been provided with documents and reading them, would have the opportunity to raise questions when they do come forth to the full Committee. I think that seems to be about where we got in our deliberations. Harvey and George, do you want to add anything?

MR. PERRY: I find it a little difficult to add anything because I was not listening to what was said. What I did hear sounded quite adequate.

THE CHAIRMAN: George?

MR. GATHERCOLE: No, I don't think so.

THE CHAIRMAN: I think the problem we face here is that we are dealing with questions which in some sense have been left questions of public debate and of longer run concern. Some of them are also going to be dealt with in the process of studies of the Tax Structure Committee and this work there will be very useful to us.

There is a lot of detail in these papers and none of us have had them so very long, so I think our programme will be to have these papers polished up. They will be generally distributed, of course, for members of the sub-committee to give a good deal more attention to the detail and try to formulate some recommendations before the next meeting.

MR. PERRY: The sub-committee really have not done much hard thinking on any of the subjects yet.

THE CHAIRMAN: Are there any other comments or questions on that one? I think all of us will come back to the question of procedure that you raised about the future of our Committee structure. Might we go on to the work of the Cultural committee, please? Who is going to be spokesman here?

PROF. FOX: Dr. Brady was absent to deal with John Laskin's paper at the other sub-committee. In his absence I was asked to serve as chairman of the sub-committee on Culture.

We examined one topic very thoroughly, and I can say that we have a very strong recommendation to make to members of the plenary Committee on it. I believe it has been put in your hands now. This is Tom Symons' preparation of proposals for an Ontario Cultural Exchange programme and an Ontario-Quebec Cultural Exchange agreement.

Mr. Chairman, I do not know how you would like to have us deal with this, because I appreciate that maybe some of the members have not read the paper. It is very clear and direct and not technical, and I would offer for your consideration the suggestion that Tom Symons take us through it very quickly.

THE CHAIRMAN: Fine.

PROF. FOX: Because others of you really have not had a chance to look at it. As you have it before you, he can point out one or two things, and if you like we can come back to the distilled essence of the opinion of the sub-committee.

THE CHAIRMAN: I am sure that would be acceptable.

PROF. FOX: The reason I suggest this is that we feel strongly in the sub-committee that we can proceed if the full committee agrees.

PROF. SYMONS: The report was prepared over the summer with the assistance of a very helpful and thorough research assistant. As directed at the last meeting of the Advisory Committee last spring, we explored the question of whether something might be done to improve the dialogue between English and French speaking Canadians by a cultural exchange programme. In the course of doing this we consulted, between us with some forty people in Ontario and Quebec who were experienced in the field of cultural matters and cultural exchange. We found that there was really a unanimity of feeling in these provinces that a great deal could be accomplished by a cultural exchange programme, and not only unanimity but a very strong feeling in favour of such a development.

In particular the reaction in French Canada was of interest. This is something that we

believed we should approach with great caution and uncertainty, simply having no idea of what kind of interest there would be towards such a proposal or idea coming from Ontario. It was obvious at once from the very start that people engaged in cultural activities in the province of Quebec and in the administration of governmental services related to them, would be delighted by such a development. I report this as a point of interest and I think a point worth noting. They were simply astonished that such a proposal would emanate from Ontario. This leaves us wondering just what kind of mental picture they had of us in Ontario, that this should be the reaction.

MR. PERRY: On the assumption we do not have any culture to exchange.

PROF. SYMONS: I think that was the unspoken side of it perhaps. The other side was really an assumption that we simply would not be interested, and there was delight and amazement at the fact that we would be even exploring such a matter.

To skim quickly through the report, the first section examines the need for a cultural exchange programme and, as I suggested, reports very firmly that there is indeed the need for such a programme.

The second section explores whether or not

there is any particular reason for Ontario at this time to take such an initiative, and it concludes that there is, that Ontario is in a unique position among the English-speaking provinces to make a contribution in this field, and that it would in fact be almost failing in its obligation to confederation if it did not move ahead and take this initiative. By geography, by character, size of population, by its resources and wealth and by its historic connection with French-speaking Canada, Ontario is, amongst the English-speaking provinces, in the unique position to initiate a cultural exchange programme.

The third section explored the scope for a cultural exchange programme and noted, I think, the key point that there is a need in particular for a sustained cultural exchange programme. There have been lots of bits and pieces apparently at different levels of government, but what has been lacking hitherto has been an extensive and sustained programme, and it is this which is recommended.

The details of such a cultural exchange programme are not explored in the body of the report but they are indicated in the appendices rather than here in section III. There are about ten pages of notes and appendices indicating some of the possible activities, and there would be many more that might be sponsored within the context

of an Ontario cultural exchange programme.

Section IV simply develops the concept of a cultural quadrilateral involving the four major communities of Ontario and Quebec -- the English minority in Quebec province, the French minority in Ontario, and the two majority groups. It notes that there is scope not only for a cultural exchange programme between the two provinces, but within each province, and that this would often provide an opportunity for a four-way exchange that might be a great help to the minorities in both provinces.

Section V deals with multi-culturalism in an exchange programme, and it makes the point that Ontario is at least ethnically and to some extent linguistically a multi-cultural society and not just a bilingual society. This is something that needs to be recognized in an exchange programme, and something that could enhance the programme.

Section VI explores the role for government participation in a cultural exchange programme. It suggests that experience to date with some of the privately sponsored cultural exchange programmes indicates the need for a measure of government participation. There have been a number of unfortunate experiences in which private exchange activities have been planned and have been less successful than they might have been, and one or two cases -- indeed one in the last month when a

major performing troupe came from Quebec. There was something that might be described as a cultural disaster due to lack of planning, lack of publicity, lack of preparation. This folk dancing troupe received little or no public support in Toronto. This, of course, has now gone to Washington and is enjoying national fame and full houses, and the contrast between the acclaim accorded to this distinct French troupe in the English-speaking cities of Toronto and Washington is something that is being commented upon editorially or featured, I think, in every major national French language paper in Canada. It is an episode that simply should not have occurred and need not have occurred if there had been some agency to ensure that there was adequate preparation, adequate reception, adequate publicity. As it is, you all probably know it played to houses that were often nearly empty. I am not sure whether it did not perhaps close early.

MR. SEGUIN: Yes, it closed before ---

PROF. SYMONS: And this only occurred six weeks ago, and it is an immediate example of the need for some kind of an agency providing continuous planning and experience.

THE CHAIRMAN: Excuse me, Tom. This implies that there was some such facility in Washington?

PROF. SYMONS: No, it does not, but I think that in the planning for their visit to Washington they did not take for granted the things which they took for granted when they came to Toronto. I was very interested and made inquiries, and I think they assumed that certain things would be done at this end in Ontario when they came which they did not necessarily assume would be done in Washington, and therefore they made extra plans in Washington.

PROF. CREIGHTON: They came, of course, at a very unfortunate time. I wonder what happened to the other offerings of the O'Keefe Centre at about that same time.

PROF. SYMONS: They did not do anything like as badly. It was a depressed season.

PROF. CREIGHTON: Certainly a depressed period of the year. This is mid-August, I take it.

PROF. McWHINNEY: No, it was spring, was it not?

PROF. CREIGHTON: Six weeks ago would be August.

PROF. McWHINNEY: They were here in the spring, I thought. I do not think it was ballet as such. I remember the French group last year, which has since disbanded, and they had reasonable houses at the Royal Alex, but I do not think folk dancing would be inter-cultural fare here any more than the States. In other words, I think classical

dancing -- and you remember this French group last year was really quite imaginative, although members of the company were in some cases German or Polish. In other words, I think there might be other explanations besides.

THE CHAIRMAN: What you are saying is that the Beatles were also here in mid-August and they did not suffer this.

MR. PERRY: They got a little more publicity.

PROF. McWHINNEY: In a different constituency, the sixteen year olds.

PROF. BRADY: Climate has a different effect on these.

PROF. SYMONS: I think there would be other factors, of course, Mr. Chairman, but there are many other examples of theatrical visits, artistic exhibits and so on that simply have not had the benefit of proper presentation and planning, and the value of the presentation has been much curtailed because of this.

The next section is "The Province of Ontario Council for the Arts". Perhaps we could leave that and return to it.

Section VIII - Privately sponsored cultural exchanges. The report notes the fact that there is a fair amount of activity of this sort, that it is entirely desirable, and that the development of the government programme far from inhibiting private

activity in any way, should be a means of encouraging and magnifying the private sector by example, by the advantage of services and experience and sometimes by financial assistance. Often the amount which is needed to make it possible to carry on a private exchange is a very modest one, and this is something that might be achieved through government assistance.

So it was felt that the development of an Ontario programme would not conflict with cultural exchange plans done by schools, universities, businesses, communities, but should actually enhance the work of these private bodies.

Moving ahead to section IX - Quebec Interest in an Ontario-Quebec Cultural Exchange Programme -- as mentioned, this is something we just could not get in advance. We have discovered there is very great interest and that there is no danger of a rebuff to the province if it would take this kind of initiative.

Then the main section, Section X -- Procedure and Form for an Ontario-Quebec Cultural Exchange Agreement. The obvious first consideration was that if the Prime Minister should decide that a cultural exchange agreement was something that this government may wish to proceed with, then this is something which should be done at the highest level, not by this Committee or by others but probably by

the Prime Minister himself direct to the Prime Minister of Quebec; secondly, that it was desirable that such an approach, if one is going to be made, should be made as soon as possible; that there is an element of urgency here that is being sharpened by the fact that in their excitement at the possibility, one or two people in Quebec City have made public reference to it.

Then the question of the procedure to be followed and what form such an agreement should take. The first possibility was an accord or an agreement between the provinces that might be signed. There are certain difficulties to that -- the implication that might be drawn from it that the provinces were signing pacts. This aspect might be misunderstood and exaggerated. While that was outlined as a possibility the Prime Minister might care to consider on page 16, on page 17 a number of possible alternatives to a signed accord were suggested -- basically something that would be a more informal agreement or an unwritten agreement such as an exchange of letters or public statements. I think in writing the report I felt this was something that it would be perhaps presumptuous to be more specific about. I tried here simply to indicate a number of possibilities. But the sub-committee on cultural matters this morning did feel that it would be as well perhaps to avoid a

formal signed agreement and instead, if we were going to go ahead, to do it by means of reciprocal public statements by the two Prime Ministers, which might then be followed up by an exchange of letters; that this would have nearly as much impact as a signed accord, that it would achieve everything in terms of a function and it would avoid the problems of constitutional misunderstanding. So the sub-committee was inclined to that approach.

It was suggested that the public statements of the two Premiers might simply indicate a broad agreement between Ontario and Quebec to launch and work together upon a reciprocal programme of cultural exchanges; that it might include specific provision to establish a joint Ontario-Quebec committee which would be a consultative committee, not an administrative committee, and would be made up of representatives of the bodies in each of the two provinces which are responsible for the cultural exchange programme.

Then the recommendations on page 18, and there were four. One of them is a difficult one and I have left it to return to; that is the question of the Ontario Arts Council. The first recommendation is that immediate consideration be given by the Province of Ontario to the establishment of an extensive and sustained programme of cultural exchanges. This would be both with the province of

Quebec and within this province, between its French and English speaking peoples. It should also reflect the multi-cultural character of the province of Ontario.

The second, that to this end provision should be made, perhaps under the aegis of the province of Ontario Council for the Arts, for the establishment of an Ontario cultural exchange programme. We are suggesting there that the Ontario Arts Council might provide the framework within which this programme would be planned and administered. There are some difficulties to that and the cultural committee spent some time on it this morning.

The Ontario Arts Council has now been in operation, I think, some three years, and has the responsibility of providing encouragement and support for the performing arts in Ontario. It has not up to now engaged in the cultural exchange programme, because its limited resources are focussed on the more basic task of assistance to the Arts. Its Board and Executive Director are very interested in this programme, and will be willing to take it on. The problem in the mind of some members of our sub-committee was that the Ontario Arts Council has already a fairly full programme of activities; that its outlook and interests have been formed and oriented towards the programme of supporting the performing arts; and that it might be a disservice to

the cultural exchange programme to have it tacked on as a kind of second thought to the Ontario Arts Council.

On the other hand, the Ontario Arts Council exists; it is in business, it is doing a good job, and it would perhaps be a vehicle to undertake this work.

The solution that is recommended in this report, and which the Cultural Committee felt on balance was perhaps the right one, would be to put the Ontario Cultural Exchange programme under the Ontario Arts Council, under the Board, but as a separate division with its own director and its own distinct budget and secretariat, but reporting to the Board or its Council.

The third recommendation was that an approach should be made to the Province of Quebec as soon as possible and at the highest level, to explore the possibility of such an agreement.

The fourth recommendation is that the possibility of similar cultural exchange agreements with other provinces or groups of provinces -- such as the Maritime group of provinces or a prairie group of provinces -- should be explored once the Ontario cultural exchange programme has been established.

The cultural sub-committee this morning felt that this was a desirable thing, and that it might be very important and politic, if the Prime Minister

were to proceed with this kind of programme, that in conjunction with his announcement of the establishment of an agreement with Quebec, it might be the time to indicate that he looked forward to possible similar agreements with other provinces or groups of provinces, so that it would not be thought of as purely something involving Ontario and Quebec, and that other provinces would not feel excluded.

That, very quickly, sir, is the gist of the report. I will be glad to attempt to answer questions which you may have.

THE CHAIRMAN: Thank you very much. We have got some very specific matters here.

MR. GATHERCOLE: Mr. Chairman, there was an announcement by the Premiers of Ontario and Quebec, was there not, concerning the development of cultural exchanges?

THE CHAIRMAN: I think perhaps I spoke to that just before you arrived, George, but I am not certain when you arrived.

MR. GATHERCOLE: I beg your pardon.

THE CHAIRMAN: But I explained.

MR. GATHERCOLE: I was wondering whether it was based upon this report.

THE CHAIRMAN: Yes, I explained the error in the newspapers in that regard.

MR. GATHERCOLE: I am sorry, I apologize.

PROF. CREIGHTON: Mr. Chairman, when the

report talks on page 16 of the establishment of a joint Ontario-Quebec committee, it really means the meeting of two committees, one appointed by each province, I take it?

PROF. SYMONS: Yes, and a consultative committee, not an administrative committee. There is, Mr. Chairman, a specific recommendation in regard to financial support for this programme on page 11, and the recommendation is made that a budget of the order initially of \$300,000 per annum would be required to establish the programme on a solid footing; that such funds should be granted by the Province to the Ontario Arts Council and administered by the Council for this specific purpose. This would be a distinct budget and not part of the budget for present activities of the Ontario Arts Council.

PROF. CREIGHTON: What is the present budget?

MR. SEGUIN: Half a million.

PROF. SYMONS: \$500,000 annually is the present budget, and the recommendation is that for the specific purpose of the cultural exchange activities there should be a separate budget under its administration of \$300,000 per annum.

PROF. CREIGHTON: It would not be our business to recommend an increase of the budget allotted to the Arts Council for its major programme. If you allocate \$300,000 to this relatively subordinate activity and only \$500,000 to the major, I think it

is rather out of proportion.

MR. SEGUIN: It would be in most cases the same companies and same groups that would get it, because it is the established groups that would get enough to go and perform at other places. It would be just the additional expenses for travelling mostly.

PROF. SYMONS: The figure of \$300,000 as an initial thing, Mr. Chairman, was arrived at after discussion with the Ontario Arts Council and representatives of some of the different organizations that might be involved in an exchange programme, and this gave us some indication of what the approximate costs would be to establish a programme of this sort.

THE CHAIRMAN: Are there some points of discussion?

PROF. FOX: If I may, as the temporary chairman of that little group, I would like to speak to it. It is Mr. Symons' report, and I think he has been very modest in presenting it. We were all unanimously very much in favour of it, and we felt that this was something that could be proceeded with almost immediately, if this Committee were in agreement. At least, it could be recommended to the Prime Minister, who would have to make the final decision, although there are not too many other things involved that would get you into some of the tangles that some of the other things do.

We know it will be well received.

This is the opportunity also of reaching out to other provinces in Canada, and there is an appropriate occasion coming up in which Mr. Symons' was involved which might be suitable for the presentation of the idea, so all the parts fit together rather well.

THE CHAIRMAN: Did you discuss the study being done under the supervision of Father Matte?

PROF. FOX: Yes.

THE CHAIRMAN: It occurs to me it is unfortunate we do not have that here, because some of the details and arrangements that that would turn up may have to be fitted in here.

PROF. FOX: Yes, this was considered in some detail. Our feeling was that Father Matte was dealing with problems of exchanges. None of us present knew what was in his paper or what the thinking had been. We felt to delay things another month until he reported would perhaps delay this beyond the point where it might have most impact, and we thought it would be better to recommend to proceed with this and then if any of Father Matte's proposals fitted it you could fit them in. If they did not, you could proceed in another way. In other words, this would not be a completely closed package.

PROF. BRADY: Is he considering such things

as the teacher-pupil exchange?

THE CHAIRMAN: Yes, I understand he is making a catalogue of all forms of teacher-citizen and broadly speaking cultural exchange in existence.

PROF. CREIGHTON: It would be valuable fitted together, but what is the difference between one, two or three?

PROF. FOX: I think the difference is that expectations have been aroused.

PROF. CREIGHTON: From this premature publication?

PROF. FOX: From this premature publication, and also if you can proceed on something which looks like a pretty good item, I do not see any use really in waiting to decide whether or not the student-teacher exchanges should be fitted in or left over. After all they can be fitted, if necessary, later.

We recognized there might be a conflict of jurisdiction with the Department of Education, for example, who might want to have a hand in the teacher-student exchanges. If so, fine, let them, but if not this body can do it.

THE CHAIRMAN: It is, I must say, regrettable having that matter in the newspaper in terms of expectations, because this is a matter that obviously the Prime Minister will want to consider with the government in some detail, any of these proposals,

I should think.

MR. PERRY: Do you want some sort of formal motion, Mr. Chairman.

THE CHAIRMAN: If the Committee is ready to come to that point, I would be glad.

MR. GATHERCOLE: Mr. Chairman, there is only one point I would like to make, and that is on the suggestion of \$300,000. It is very difficult for us to sit around here and say that is too much or not enough money. This is something that requires a good deal of study in relation to what other requirements there are, and while it is perhaps very appropriate to include it in this report, I would be loathe to see the government come up with something less, which may be \$50,000 or \$25,000 or \$100,000, which might be a very good start on a programme of this kind but at the same time, since it fell so short of what had been recommended, it proved to be disappointing, disappointing to the people, and take a lot of the steam out of the announcement. So I just wonder, did you make that part of the recommendation?

DR. FORSEY: It was not contemplated that this report should be published at all. This is a report to the Prime Minister. The public are not going to know whether it is \$300,000, \$3 million or 30 cents, but I presume the authors of the report have some reason for recommending or suggesting this

figure, and unless it is on the face of it preposterous -- which it does not appear -- I do not see why we cannot include it, and the Prime Minister can say: "Sorry, boys, we can't do it", or "It is a miserable specimen, it is not enough; it should be half a million". I do not see that the disappointment, if there is any, on the extra amount, need extend beyond the walls of this room.

PROF. FOX: These things have a habit of leaking out.

THE CHAIRMAN: It is always embarrassing when this takes place. We do have a lot of paper floating around inevitably, and I am extremely sensitive in my short time in government to the mysteries of leakages, and I do hope that none of us is absent-minded in keeping track.

PROF. SYMONS: Mr. Chairman, in this matter it would not be merely a case of, if the Committee wish, forwarding the report to the Prime Minister, but if the Committee wishes, a favourable recommendation and no reference to the budget at all, then simply in the body of the report as one of dozens and scores of facts is the statement that a preliminary costing of some of the basic activities of such a programme, and the experience of similar programmes elsewhere, indicates that a budget of the order initially of \$300,000 per annum would be required to establish the programme on a solid footing. This is a fact,

at least insofar as it is the finding of your sub-committee.

DR. FORSEY: If you are really afraid of leakages, -- and what an infernal nuisance these newspaper people are -- leave out all figures and simply say: "Recommends that such sum as the government considers possible, necessary or feasible should be allotted for this purpose", and then no matter who steals the thing, all he can find is that we are suggesting the government should spend whatever it thinks fit, and then nobdoy can be terribly disappointed.

THE CHAIRMAN: We can revise this accordingly. I have to inform you that in fact the Prime Minister has already read Tom's paper, because he asked me for it the day after it was in the newspapers.

PROF. CREIGHTON: This item did not get into the newspapers, of course, did it, the \$300,000?

THE CHAIRMAN: No, no, just the existence of the paper. He understands, of course, it has not been before the Committee.

PROF. SYMONS: Mr. Chairman, I think nothing would be lost from the report if the Committee wished to amend it and just say "sufficient funds" or "appropriate funds", as long as at the same time someone were to mention to the Prime Minister ---

THE CHAIRMAN: Exactly.

PROF. SYMONS: That it looks as though it

would cost so many thousands.

DEAN LEDERMAN: I gather this is not a figure pulled out of the air, but it has been worked upon and arrived at, and from the Prime Minister's point of view I think the natural question in his mind would be: "What is the bill for this?" and there is a figure. As long as the secrecy of the figure can be reasonably safeguarded, you are doing something for him if you give him a figure.

THE CHAIRMAN: Surely.

PROF. FOX: May I just speak to that point very briefly. The figure is not in the recommendations; it is in the body of the proposal. On a point of principle, I think we should include items like figures and so on for the reasons just given. Surely we have to assume that this Committee has some weight, because otherwise we are going to be tracking out anything that has guts in it. I think this is very relevant and I think it should be left in. It is merely a suggestion.

DR. FORSEY: I suppose you run the risk of doing the same sort of thing as one hears of the Anglican Bishop who at the New Year's service might say: "Let us resolve to try to be good and help our neighbours". It may be an admirable sentiment, but it does not get very far specifically.

PROF. SYMONS: I would assume, Mr. Chairman, that one of the appropriate parts of the task that

you assigned to my research assistant and me was to give some realistic indication of what the cost was. I would be
/ delighted to have back the day or so I spent trying to find out what the appropriate figure was. I assumed that you would wish such a figure.

THE CHAIRMAN: I think that is right. The report as now prepared is the one which is in multiple existence. The report that will go forward from this Committee to the Prime Minister will be a single report from me to him, so I think that solves the problem. I think we should be exact and explicit, and I will be happy with that. Is there sufficient discussion now and some motion which we should perhaps have as a formal expression of approval?

MR. PERRY: I would move that the Committee adopt the report for forwarding to the Prime Minister.

THE CHAIRMAN: Any further discussion?

DEAN LEDERMAN: By "adopt" you mean approve?

MR. PERRY: Approve and adopt.

THE CHAIRMAN: Any further discussion? All in favour? Thank you.

PROF. FOX: Mr. Chairman, I can be brief, because we have spent a great deal of time on Tom's report, and there are one or two items of procedure we talked about which I believe you wanted to consider in another context. Then Dr. Brady came in and took over as Chairman, so I turned things over

to him.

PROF. BRADY: The item that was discussed after I came in and struck the sub-committee as one of difficulty was the proposal for a capital territory or administration of a capital area. On the whole we concluded that the difficulties of establishing this sort of thing were far too great and the limitations of it too obvious at this stage; but of course we had not any study before us on the subject, although we have some observations of interest, but I do not think we have anything to report other than this general doubt.

THE CHAIRMAN: I am sorry. I was distracted there for the moment. The suggestion was that you think this is not a subject we should be ---

PROF. BRADY: We did not think it very urgent.

PROF. FOX: I think we were all overwhelmed by the nature of the problem. One reaction was: How did we get into this particular problem? We felt it was so involved, it is impossible really to do much, and also in view of the fact that the B & B Commission is studying the thing in some detail.

THE CHAIRMAN: We won't know anything about that until after November the 8th, though.

PROF. FOX: I suggest the gist of it all is that no one in the sub-committee was terribly enthusiastic about it.

THE CHAIRMAN: Yes.

PROF. BRADY: Mr. Chairman, is the Prime Minister interested in this question?

THE CHAIRMAN: We have not spoken about this. I put this down because a great many people in Ottawa had spoken to me about it, and we came upon a practical recommendation which Mr. Stevenson and I discussed and had some worry about. Don, would you like to refer to that?

MR. STEVENSON: It was just that the Murray Jones report, which had done a special commission of inquiry on the form of government for Ottawa, was published in late June and it is now being discussed by the Department of Municipal Affairs. In the report there is a strong statement that although Mr. Jones felt that the question of a federal district for Ottawa was outside his terms of reference, he had received submissions to the effect that this was a solution for the area.

His own persuasion was that he did not feel this was in his terms of reference. If it were, he felt that it was not a good thing, that it would abrogate the principles of local government.

The problem was, if this Committee was to have any opinion on it, or want to have an opinion on it, there might be some urgency before the Department of Municipal Affairs make up its mind on the Jones report recommendations, because if they were accepted I would think an alternative form of

government for the Ottawa area would hardly be possible.

MR. GATHERCOLE: What is the schedule for consideration of the Murray Jones proposal by the Department of Municipal Affairs or by the government?

MR. STEVENSON: I am not sure. We had some draft inquiries in mind, but I think they were held over until after the Committee.

MR. GATHERCOLE: The proposals were quite radical in a number of aspects, requiring a great deal of prolonged consideration before the Committee decide on them, so I just mention that in relation to what has been said here by Dr. Brady as having some bearing on the creation of a federal district commission.

DR. FORSEY: If the B & B people are seized of this (and I gather they are) presumably they will make some proposals about it. What is their schedule? Does anyone know when they are expecting to produce their monumental effort?

PROF. FOX: All research was supposed to be complete by September, this month, and I am sure it will not be. Presumably their final report was to be issued next year.

DR. FORSEY: If they come out in favour of a Federal District Commission, without adequate grounds for it, the pot may be set boiling again, and this Committee may find itself in a position

where, Murray Jones or no Murray Jones, Department of Municipal Affairs or no Department of Municipal Affairs, we will have to say something to the Prime Minister.

PROF. McWHINNEY: I do not rely on the fact that B & B are doing research. The Ontario orientation is different, and the approach to research depends on who studies the questions and how. We have to do our own research on that. We do not have to be necessarily as detailed. You could do a short study on this thing without a great deal of fuss and without a great deal of trouble, raising all the necessary implications. It is the sort of thing that we should have done in a couple of months as a supervised piece of research.

THE CHAIRMAN: I see two possibilities here. The Cultural sub-committee, as I judge, recommended against our considering this here. We can say we do not wish to touch it at all, or we could refer this to the research policy group that I proposed should be created this morning, for more detailed examination, and say that we want to go into this.

PROF. McWHINNEY: It does really depend on the decision whether it is important or not. I take it the Cultural committee was not competent to consider it.

PROF. FOX: I do not think the sub-committee of which we were members had any desire to kill

the project, but simply that we were not terribly enthusiastic about it.

PROF. BRADY: We did not think its priority was very high. Perhaps the members of this Committee think differently.

THE CHAIRMAN: I think it is going to be difficult to settle here, and perhaps I should take soundings on various matters and then discuss them with this group.

DR. FORSEY: I think that is a good idea, because in spite of the recommendation of the Cultural sub-committee, I am afraid things will come up again and again and the B & B Commission will produce some sort of cock-and-bull scheme that will simply have to be coped with.

PROF. McWHINNEY: They are almost bound to recommend something in this area, because it is one of the least controversial things that they would recommend, even though in local governmental terms it has many hidden problems.

PROF. BRADY: Very controversial.

MR. PERRY: The specific issues can easily be shown. They are pretty obvious.

THE CHAIRMAN: The time is getting on. Could we carry on with the Cultural group. Paul, are you reporting on the Leduc study?

PROF. FOX: I might just explain that we commenced the discussion of the Leduc paper, and

then Mr. Perry was free to join us and we adjourned the discussion and we have not really given it any thorough consideration.

The feeling is that this is a draft. I explained to you this morning that I did not have the opportunity to see it before it came in this form, and I know the members of the other sub-committees have not had a chance to look at it.

What I would propose, Mr. Chairman, is that if you want to speed things up, we can either postpone discussion of it until the next session of our plenary and sub-committees, or if you want to speed things up, any suggestions for revision or questions about its content might be directed to me and I can direct them immediately to Mr. Leduc and we could have amplifications.

THE CHAIRMAN: Fine. I think we might well postpone this and I suggest that any comments, as soon as you have had a chance to absorb it, be directed to Professor Fox by mail, and you could perhaps then use that as a basis of some conclusions. Has everyone got the study?

PROF. FOX: May I just suggest, if you want to discuss it before the meeting on 15th October, that in order to give Mr. Leduc time to amplify points, perhaps I should receive all comments before, say, October 1st or by October 1st. Then I could have a revised form.

THE CHAIRMAN: Are there any other matters on the business that we have undertaken so far? Might we proceed to the discussion of our future procedures in practical terms and in research and in discussion terms. I suppose this also raises the question that Professor McIvor has introduced about the form of sub-committee discussion and meeting. Can we go back to yours, Dean Lederman.

DEAN LEDERMAN: Well, we discussed this, Mr. Chairman, and I will mention these two things and just mention them because I do not think they are controversial. At least, they do not involve what we have to settle perhaps this afternoon.

We first discussed the matter of public sessions, and we thought this was not the kind of committee that should indulge in public sessions, and we are opposed to public sessions.

We also thought that we should, where possible, formulate recommendations for the Prime Minister; that the Committee as a whole should take positions in that sense not in the public sessions.

Then the question of committee organization to permit us to get on with the things that we ought to be doing, there seemed to be two alternatives for committee organization. One was that you would stay with the specialized committees that we have been using today and to date, specialized by the subject matter being dealt with. The second would

be to form two or three all-purpose committees that would debate the same range of subjects concurrently and then come together in plenary session and see to what extent we had agreed, and one could very quickly define the differences since the three committees would have been operating over the same range of subjects, two or three committees, and this would give everyone a chance to participate pretty freely in debate on the same subjects, and yet, when we did come together in plenary session, would define the points of difference and would get right to them. There would be some economy of time in this case.

We discussed this for some time, and we felt, I think, in the end, that there were two functions. There is a planning function, and this we thought might well have to be carried on by specialized committees; but when it comes to the overall debate as to policy or to recommendations, where the whole committee takes a position, then the idea of debating over the whole range of subjects in two or three all-purpose committees in which we are not separated by our relevant specialties, might be the technique.

So I am afraid we came to the view that both types of committees were necessary and we would have to run both types of committees.

THE CHAIRMAN: I think in order to arrive at any conclusive point, perhaps we should make this

remaining time a general discussion of procedure, and then let the research policy committee again take hold of these things and hammer out some procedures, unless they emerge clearly by consensus here. Did any of the sub-committees -- we did not get on to this in ours, I confess.

PROF. FOX: We spoke very firmly. Actually we just sat down at the beginning of our session and I think I should record what Mr. Seguin said because he felt strongly about it, and that is that the technical committees, so-called committees of experts, ought to have a look at technical papers before they were submitted to the plenary session. This has, I suppose, appeared in your Constitutional sub-committee meeting today, because surely this is a second step which you want before you can broaden the discussion.

The other point that was raised in our sub-committee was the opinion that all reports ought to be circulated to all members, if possible, in advance, so that we do not have only the sub-committee members familiar with the contents of the report. We appreciate the difficulties that you have, and we are not criticizing. We are just saying that as future policy this is desirable.

THE CHAIRMAN: Well, it seems then the first matter is as early as possible the broad circulation of papers. The second is to have the

technical sub-committees deal with these. The third stage is then to have a cross-current discussion by mixed sub-committees, and then finally to come to plenary recommendations. Those people who make up organization charts might have a little difficulty with this one.

PROF. CREIGHTON: We realized this when we took the decision on this thing, and thought it was extremely complicated and cumbersome, and perhaps for that very reason it ought to be abandoned.

PROF. BRADY: I wonder, Mr. Chairman, whether you actually need the mixed committees, number two perhaps in the order. This is not, after all, too big a committee for having a general discussion on some things, especially that has already been scrutinized by a special committee. I think it would be advantageous to have discussion perhaps in the whole.

PROF. CREIGHTON: In other words, to proceed as we are proceeding now. You earlier made the point, Professor Brady, to the exact opposite, that we ought to be participating in these, every member.

DR. FORSEY: He is older and wiser this afternoon.

PROF. BRADY: I still have some doubts about the special committee. I think I would have a different type of sub-committee that would cut

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across the purely, shall I call them, disciplinary lines.

PROF. CREIGHTON: What other kind of committee can you have if it is not specialized or all-purpose?

PROF. McWHINNEY: You could have specialized with the odd inter-disciplinary type.

PROF. BRADY: Yes, what I would wish is a smaller committee than this is, to summarize given papers and make a preliminary report on the paper before it came to this Committee.

PROF. CREIGHTON: Isn't that what your special committees are now doing?

PROF. BRADY: Yes, and I think I would put into three special committees, but I have no very strong opinion on that. In other words, what I was referring to -- take the discussing of constitutional matters, cultural matters. I cannot separate those, and I think these questions need to be discussed in the preliminary analysis of the theme and then brought before this general ---

PROF. McWHINNEY: If we remained this side as a working committee, I was just counting up, and counting you, Mr. Chairman, you are only thirteen. I think we are an eighteen member committee, and that is a little too large. I think we all know from seminar experience that to constitute a discussion a dozen is practical.

THE CHAIRMAN: We are down to seventeen now

with the absence of Professor Laskin. In practice, given this committee, I dare say that an absentee rate of two or three or even four might be expected.

PROF. McWHINNEY: It is a practical number, I think you would agree, so that we could perhaps continue with the special committees at three, the Committee as a whole as one committee, interdisciplinary. If everybody turns up and everybody is vocal, we should bear in mind Professor Bacon's experience in Central Africa.

PROF. CREIGHTON: I think it does mean the special committee pre-digests all this stuff; that two-thirds of the committee is sitting most of the time while the matter is being considered. If these subjects are inter-dependent, and we all agree, I think, then we are really operating on one section of it effectively. We just don't know what is going on.

DR. FORSEY: While should other people sit silent if the results of the specialized committee's deliberations appear to them to be unsatisfactory or unworkable? It seems to me that for example, if we have prepared something or have had prepared for us and we have vetted and approved that, which we think is satisfactory from our special point of view and then other people say: "You are simply overlooking the economic factor altogether; you are completely overlooking the cultural inter-

relationship of it", if that is the way they feel they will surely say so. I do not imagine they will be so overwhelmed by the authority of the Constitutional committee that they will not say anything about it. Similarly with the Economic and other people, surely if something comes into the Cultural committee that appears to Professor Creighton or Professor McWhinney or Dean Lederman to be highly defective, they will speak up.

DEAN LEDERMAN: Perhaps the problem, Mr. Chairman, is one of timing. If the special committees meet and take their decisions and the information they have about their position and papers they used to reach that position are circulated before the plenary committee meets. I mean, with mornings of special committee meetings and the plenary meetings in the afternoon dealing with the material which is dealt with in the morning, there is not time to put the other two-thirds of the people in the picture. Perhaps this is a problem in timing. I hesitate to suggest more meetings.

THE CHAIRMAN: This is the problem. If I presume we would all be in favour of having one set of committees and it would be better to have one set of committees specialized or all-purpose than two sets, then it is obvious that in either case perhaps these may not be accommodated in a single day. We would have to have papers

circulated, which everybody agreed; then a set of committees, specialized or all-purpose, from which recommendations would come; then at another time the plenary session for full discussion and recommendation. Now, this could be as easily done two half days at different times, except for those who come from out of town.

PROF. McWHINNEY: We have had experience -- for example the committee we were on -- if we have had a consensus paper of that committee prepared by you, available for the plenary committee, I think we would have a fairly informed debate.

Presumably in the future we will have such subjects as treaty and Supreme Court. Next meeting, for example, I assume you or somebody will have prepared a consensus paper of one or two pages setting the Committee's conclusions. This is debatable because it is concrete or specific.

MR. GATHERCOLE: Mr. Chairman, I would consider it most advisable to continue along with the procedure that I believe has been employed up to the present time, and that is, after the sub-committee has explored and discussed and reasonably agreed upon some recommendations or proposals, that they make them to the general Committee rather than inserting another tier of discussions between the two. I think that would prolong things for the type of discussion that we

have here, unless subsequent experience should demonstrate that we need something which requires more discussion than appears necessary on the basis of what we have considered and discussed up to date.

THE CHAIRMAN: Supposing we had half a dozen papers which were mailed out on October 1st to everyone. These would be read and absorbed by everyone to the extent that there was general interest in them in the case of some, and in a technical way in the case of others. Then supposing on 15th October the morning was set aside for technical sub-committees to which the members would come with fairly strong predispositions, and from which recommendations could be hammered out; then in afternoon a plenary session would consider those recommendations and, everyone having had an opportunity to consider their point of view and in a sense the technical people might be the advocates, this plenary session would consider the policy on the assumption that this plenary session is not too large for good group discussion.

PROF. McWHINNEY: Would they be mimeographed in between the morning and afternoon sessions? If they could not, I would almost suggest planning for the preparation, so to speak, of the short consensus papers before the main meeting.

THE CHAIRMAN: If we are making a two page, page and a half summary, I dare say we could arrange

to have them over the lunch hour. The girls working at the reproduction of these are perhaps not unreasonable.

DEAN LEDERMAN: Mr. Chairman, this is not quite what I had in mind when I spoke of the timing problem. If we can only come once a month, the morning sessions could be the specialized planning committees; the morning session on October 15th could be the planning session and the special committee which sets up the November plenary meeting.

THE CHAIRMAN: I see.

DEAN LEDERMAN: And the plenary meeting in October would work with what planning committee did in September, and in that way you would get some time to get the information.

THE CHAIRMAN: That's fine. I see.

PROF. McWHINNEY: I think that the schedule, in other words, for the October 15th meeting, for example: our Constitutional Committee will have two fairly short consensus papers, two, say one page papers summarizing what has been agreed, and they will be discussed by the full Committee on October 15th. On the same day our Committee will begin preparing its own work for November 15th.

DEAN LEDERMAN: We have reported on what we discussed this morning. We other two-thirds of the members present really have not had a chance to get their teeth in it, either in the sense of

immersing themselves in the same background that we had or in thinking it over. I would not want to see us trying to operate between morning and afternoon.

THE CHAIRMAN: All right.

DR. FORSEY: I think we ought to keep in mind also that we are not now debating the morals of the Medes and Persians about procedure. It may turn out a little later we may have to revise it. A critical question may come up where the Prime Minister may say: "Get your Committee together quick. I must have something on this". We may find we have to more or less adjust when they find special ad hoc committees will have to be struck for special purposes.

All we can do now presumably is work out what appears to be the best arrangement for the immediate future at all events, subject to possible change with very short notice from the Prime Minister.

THE CHAIRMAN: I think we can talk about basic structure, but I anticipate ⁱⁿ fact during this winter several occasions where I may call a group of the Committee together for just such a purpose, and I think that will evolve.

Well, I do not wish to keep you longer if there are no other matters of business to attend to. October 15th, in any event, will be the day. Thank you very much.

--- The meeting adjourned at 5.15 p.m.

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

950 Yonge Street,
Toronto

on

Friday, October 15, 1965.

VERBATIM REPORT OF PROCEEDINGS

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

--- Meeting held at the Board Room, 7th floor,
950 Yonge Street, Toronto, Ontario, on
Friday, October 15, 1965.

PRESENT:

Professor Ian Macdonald, Chief Economist,
Department of Economics & Development,
(In the chair)

Professor Alexander Brady,
Department of Political Economy,
University of Toronto.

Professor Donald Creighton, B.A., M.A.,
Department of History,
University of Toronto.

Dr. Eugene Forsey

Professor Paul W. Fox, M.A., Ph.D.,
Professor of Political Science,
Department of Political Economy,
University of Toronto.

Mr. George Gathercole,
1st Vice-Chairman,
Hydro-Electric Power Commission of Ontario.

Dean W.R.Lederman, B.A., LL.B.,
Faculty of Law,
Queen's University, Kingston.

C.R.Magone, Esq., Q.C.

The Rev. Dr. Lucien Matte,
President,
University of Sudbury College.

Prof. J. Meisel, M.A., Ph.D.,
Department of Political Studies,
Queen's University, Kingston.

Professor E. McWhinney, LL.M., S.J.D.,
Faculty of Law,
University of Toronto.

Professor T.H.B. Symons,
President and Vice-Chancellor,
Trent University.

Mr.D.Stevenson) Co-Secretaries.
Mr.R.Farrell)

--- At 11.30 a.m.

THE CHAIRMAN: One or two preliminary remarks, gentlemen. We have circulated the following material about the table. First of all, the agenda for the plenary session; secondly, a copy of the speech given by Mr. Robarts at the luncheon last Friday; thirdly, a rather limited abstract of a speech by Mr. Parizeau at that same meeting, as reported in the Montreal Star.

Then there are the minutes from our last plenary session, and we are arranging to have these minutes become available rather earlier. I hope they will be available the week before we meet again, so that you will have a chance to review them before coming to the meeting.

Then there are accounts of material, a summary of some of the material that appeared in the Montreal press, on the conference last week in Toronto, as prepared by a member of our department.

Finally, some topics which the policy research committee drew up the other day as suggested questions to be dealt with by the Committee, and which I will refer to again.

The most interesting event, I think, that has occurred since our last meeting, as far as public activity is concerned, is the meeting that took place on the Wednesday, Thursday and Friday of last week in Toronto with newspaper editors

and publishers principally from Ontario and Quebec, but also from other parts of the country. That meeting drew considerable attention in the press, which is perhaps natural given the participants, although from time to time it was squeezed in between reports on the World Series on the one hand and the International Teach-in on the other.

It was a significant meeting, I suppose, in a number of ways. Mr. Lesage arrived there exactly on the heels of his notable Western tour, and he and Mr. Robarts were principal speakers at successive sessions. Each gave a strong speech that was widely reported and widely commented upon in editorials, as you know. They also attended one of the general sessions in an informal way and, I understand, took part in give-and-take in the discussions both among themselves and among the other participants.

That particular speech which Mr. Robarts gave, and which you have this morning, has perhaps gone further than many of his recent efforts in crystallizing the position of the Government of Ontario on a number of questions, particularly on questions of national versus provincial economic policy, but also on questions of Quebec-Ontario relations, and is perhaps a good document for us to use. I am not suggesting that we should conduct a post-mortem, so to speak, upon it, but

it will be a useful reference paper for summing up Ontario's present position, the position of the Government of Ontario at the moment, and leading us on to examine other matters that we may wish to propose or discuss.

Again, before we come finally to the business at hand, may I convey the apologies and the regrets for absence to the Committee of Professor McIvor, Dean Dillon, Mr. Perry and Mr. Seguin.

Mr. Conway I have not heard from, he does not appear to be here.

Coming to the agenda, we have had our sub-committees, and I suggested a common approach in each of the sub-committees, to the material that we presently have in hand.

The most significant item to report upon, I think, is the meeting of the Policy Research Committee which was established after the last meeting. I invited Professors Creighton, Brady, Fox and McIvor to join that Research Policy sub-committee, and each of them kindly agreed to do so, and we met last Wednesday afternoon, although Professor McIvor was not able to attend that particular meeting. We were principally concerned to see how we should chart our future course, and I began by expressing my own feeling that in some form, both in our content and in our organization, we should be attempting to address ourselves more

quickly and more readily to current issues, topical issues, and matters that are obviously coming before the Government of Ontario in respect to confederation and that we should be in a position to give advice upon.

I felt that we have had a stock of research undertaken over the summer, useful background as it is, and in some cases productive of particular recommendations. On the other hand, this Committee obviously, as a committee of expert opinion and broad experience, is one from which we should be able to come fairly quickly, without always insisting on profound or deep research, to points of view. It is my own feeling, for a number of reasons, that within the next few months this is going to be particularly important almost as a crash programme.

First of all, after November 8th, whatever the outcome of that event, it seems clear there will likely be meetings of different sorts, conferences of different sorts, at which it will be terribly important for the government of this province to establish a position. In the first place, the Premier of Ontario has called for more direct discussion and confrontation on what the people not only of Quebec but of all provinces and of the country as a whole, want to see happen to Confederation.

In the second place, we will have to prepare ourselves for the coming round of federal-provincial financial negotiations which will take place next year, prior to their implementation for the period 1967-72; and I think that in the body of those financial negotiations it is not just a matter of talking about sophisticated economic formulae, but rather it seems to me that the position that a government takes in those financial negotiations will be the product of its philosophical position with respect to confederation, its position with respect to the relative strength of the central government and the provincial government, its position with respect to the degree of control it wishes to exercise over its affairs, and so on.

Therefore, if one may put it this way, I think that in all of these meetings -- and, of course, in addition it seems clear that after a decent period of mourning, some new substitution must take place, to be put into effect on the constitutional area, if indeed the amending formula ceases to apply -- for all of these reasons we will want to be thinking, so to speak, in philosophical terms and presenting positions. In turn, I imagine that the government will want to come to us and get fairly speedy advice on a number of particular problems.

That was the mood in which the sub-committee

addressed itself to its task. In addition I might just mention two or three special points that they considered.

First of all, we thought it would be useful fairly soon now, to try to have a working session or seminar with the Premier himself, and I would add to that the Attorney General and the Minister of Education. I would be happy if the Committee were willing to support this position, that we attempt to have a session, an afternoon or an evening, or even a Saturday or Sunday or whatever, of an informal and fairly frank nature with the Premier and one or two other members of the Cabinet, where we might by that particular and broader contact get some feeling on their thinking, and get an opportunity to test some propositions.

MR. GATHERCOLE: Excuse me, Mr. Chairman, would you not want to have the Treasurer there too?

THE CHAIRMAN: Yes, I think those four people. I should have added that. Thank you.

PROF. CREIGHTON: I just wanted to ask if it was a question solely of the Committee getting the opinions or the views of the officers of Government, or whether it is a question also of this Committee advancing tentative positions which we have reached ourselves.

THE CHAIRMAN: I should think both.

PROF. CREIGHTON: After all, this is an

advisory committee, so we ought to have something to say at that meeting, I would think.

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THE CHAIRMAN: Yes.

PROF. BRADY: And the time at which it would come would be related to that. In other words, we have to clarify our own views about a number of matters before we ---

THE CHAIRMAN: Quite so. We cannot really talk there, in other words, unless we are in a position to know what it is we wish to say.

The second point was the latitude that we might permit ourselves in our activities. We had some discussion about whether we thought the Committee should be going out in a public way. I reiterated to the sub-committee that I discussed this with the Premier and he had re-affirmed what he said at the beginning, that how we chose to carry out our investigations was a matter for us to decide, although it was clear to me that he felt, for a number of reasons, that there is no great benefit to be derived from our going about holding public hearings and public seminars and discussions, and so on.

However, we did feel that it was useful to tap other expert opinions or other interested groups. We might well draw upon briefs or contributions from individuals or even in some cases from groups of people who had a position or

contribution to make in a sophisticated manner.

Finally, we came to three broad conclusions and I think, with your permission, I might set out what the three broad areas of approach were which we thought appropriate, and then go to the recommendations from the sub-committees this morning and come back to consider in greater detail how we wish to approach these topics, and in particular the question of how often we wish to meet and in what form we wish to meet.

I think the three broad areas that we thought we should approach were these. First of all, we should attempt to make an inventory or take stock, so to speak, of what the Ontario position was at the moment vis-a-vis Confederation. In other words, we should look at the established policy position of Ontario; we should look at the Premier's recent speeches; we should attempt to set out what the policies are and what the position is at the moment.

This was something that I think we can do as a staff function. I mentioned to the committee the other day that I am attempting to recruit, and have authorization to recruit, some professional staff in my own department for purposes of forming a federal-provincial secretariat, and a large part of their work would be preparation for federal-provincial conferences and continuing study and assessment of

policies. That is not, as I mentioned, going to be an easy task, to get that type of personnel. However, we have recently recruited a new member of the department from McGill University, Mr. Terry Russell, who has done some of the work that has been circulated today, and he can make a beginning on this for us. That is one thing we felt we should do.

The second thing we felt we should do was to conduct a systematic review of our institutions and our federal system. I might ask Professors Brady and Creighton to say a bit more about what we had in mind here.

So that we have, with these two things together, on the one hand looked at what Ontario does, and on the other hand, looked at the present state and structure of Confederation, and these things together might give us some leverage, so to speak, in suggesting new positions.

The third thing we felt we should do was to look at specific and timely questions, and some suggestions in that area are contained in a memorandum we have circulated headed: "Suggested questions to be dealt with by the Advisory Committee at future meetings", and you will see there some of the questions that arise:-

What should Ontario say about the status of Quebec?

What does Ontario think the status of Quebec in Confederation should be?

A point arising out of the Premier's speech the other day -- if Ontario believes in a strong national economic policy and economic structure, is this consistent or can it be reconciled with the other statement that the province needs more tax revenue for the conduct of its economic affairs?

What should our philosophical position be on the various financial arrangements such as shared-cost programmes or other fiscal formulae which do affect the character and the status of Confederation?

What particular changes do we think, if any, should take place in the B.N.A. Act, and so on.

Perhaps we might have some general commentary on that report of the sub-committee. If we can confine it to general commentary at this stage, rather than getting into too many details, then we should, as I suggest, look at the recommendations that come from the sub-committees this morning, and finally come to a decision about, first of all, what steps we want to pursue, and, secondly, what form we wish to use.

I should say too that the sub-committee the other day felt that at this stage, in its judgment, the more useful approach would be the establishment of all-purpose committees rather than specialized sub-committees as we have had to

this point: on the ground that again any of these matters must be resolved in the context of the three areas, cultural, constitutional and economic, and that at this point we were trying to hammer out general positions, so that therefore it was not only appropriate but perhaps more effective that we should all be involved in the deliberations.

Perhaps other members of the sub-committee might care to either correct me or add to the summary I have given.

PROF. BRADY: I do not think, Mr. Chairman, it is necessary to add much, because you have surveyed the discussion. I think in the Committee we all were very much impressed by one fact, that, due to the work of our sub-committees, we have hitherto been looking at special questions; and we were convinced that if we were to advise the Government of Ontario wisely, we should look at the federation as a whole and at its problems and what Ontario's attitude or policy must be in relation to those. We must not, in other words, lose sight of the forest in looking closely at the individual trees.

I think that conclusion, on which we will all agree is related too to what our Chairman said about the necessity of this Committee being prepared to advise the government in the coming year on many questions that touch really the basic character or are likely to touch the basic character of the

federation. In other words, I think we should relate our individual topics to the whole. I think that is one point that the Committee was very emphatic about. I do not know whether Mr. Fox has anything further.

PROF. FOX: I do not think I have anything further to add, except that we thought (and this is another way of saying the point you have already made) that conclusions about these specific problems in effect depended upon conclusions which we reached about the general nature of federation, and until we had come to some fairly well defined positions in respect to that matter, it was going to be difficult for us to make up our minds about these specific questions.

We had in mind also that if we did not come to some fairly clear general conclusions respecting the present state of Confederation, that we might have or might repeat some contradictions which seemed to some of us to be present in the address which Mr. Robarts gave, which at one and the same time, in the same speech, emphasized the great need of Ontario for further tax revenue for the support of its economic and other programmes, and at the same time talked very emphatically about the necessity of a national economy controlled and dominated by a national government.

It seemed to us that until we have come to

some kind of conclusions about what we thought the equilibrium between centralization and decentralization is at the present time and ought to be, and come to some conclusions about such a basic question as the present position of Quebec in that equilibrium, that we could not very well go on to anything else.

I thought also that after those very general questions had been approached, we ought to make a fairly systematic survey on the state of our federation, existing state of the division of powers, as the result of what was done before, and also a systematic study of the various institutions and the possibility of change or alteration of any of these; and only in that way, proceeding by very general principles to begin with, through various institutions of government, can we come to any very comprehensive answer to our assignment.

Finally, since those were general principles that we were trying to reach and general conclusions of the positions that we were trying to arrive at, we felt it was essential that everybody should be assisting in the general process of working out these problems; and so that we would not consume an endless amount of time in committee of the whole of the entire Advisory Committee, it would be better to split the thing up and to ask each Committee the same questions on the same day, and then to reconcile (insofar as they can be reconciled).

the answers, and leave those problems about which perhaps the Committee differed slightly from others for review and settlement by the Advisory Committee as a whole.

MR. GATHERCOLE: Mr. Chairman, is there such a contradiction or conflict in those two objectives? Is it not conceivable that we can have a strong national government in which it would exercise its authorities within the traditional fields it has in the past, and also that we can have provincial governments whose expenditures are rising because they are providing services in areas in which expenditures and needs are expanding very rapidly, so that the provinces do require additional revenue?

I think this has been characteristic of the period following World War I and World War II, and it would have been so even had there not been the greater desire on the part of some provinces to operate more services themselves.

I can conceive of conditions where there is no conflict or contradiction in those two objectives: strong central government and also provinces which require more revenue to finance their services because those services happen to be expanding very rapidly, and they require more revenue.

Also I do not think this is at odds with the general development of the economy. I suppose

that over the course of time, if you go back far enough, we are spending in the public sector a much larger proportion of the gross national expenditure now than three or four decades ago; but I can recall that during the depression, when national income or personal income and production receded so drastically, that the expenditure in the public sector was a very high proportion, and perhaps just as high a proportion of the gross national expenditure as it is today.

So that it may be that Canadians because of their growing and rising living standards, wish to have more income channelled through public offices. So in part those additional funds could be moved through the provincial treasuries and into provincial departments and functions, without at the same time undermining the essential task that the national government has to perform.

Now, that is just an observation on my part, and I am not making too much of it at all. I think there is, of course, a marked movement towards concentration of authority in the provinces. I think these pressures arise to a very large extent because of developments in the province of Quebec.

PROF. CREIGHTON: If that is the case, it seems to me that that is exactly what I have been saying. If there is a movement towards a very

large concentration of authority in the provinces, that is what we ought to make up our minds about, whether this applies or not.

DR. FORSEY: Mr. Chairman, surely the matter before us now is not so much whether there is or is not contradiction in what Mr. Robarts said, or whether this or that or other solution or this problem is thus or so, but whether the kind of thing that is in the policy sub-committee's report is the kind of thing we ought to be directing ourselves to. Should we be taking a look at present Ontario policy, making a systematic review of our institutions and federal systems, considering specific and timely questions such as those listed, or should we be proceeding in a different manner altogether? I do not think we ought to get into any other discussion of the first question or second on this list, but ought to be asking ourselves is this the kind of thing, the whole of them.

THE CHAIRMAN: What is your general reception of the sub-committee's proposals for general approach? Would you accept it, would you amend it?

PROF. McWHINNEY: You mean this three-ways suggestion, not raising ---

DEAN LEDERMAN: Seven topics or the ---

PROF. McWHINNEY: Or the three you just

outlined?

THE CHAIRMAN: The three broad categories of approach: a systematic examination of the Ontario position, a systematic review of the present institutions and structure of Confederation, and, thirdly, the particular topics of which the seven are cited as examples.

PROF. MEISEL: Mr. Chairman, I think that there is contradiction in the three areas that you have just mentioned and the suggested questions, because I personally think that the three problems that you raised are obviously what we must look at and get cracking on.

When you turn to this document, you find really enormous questions such as: "Should Quebec be an associate state?". I think we should not ask ourselves that now. We should ask ourselves what are the consequences and what is this really posing in the first question?

THE CHAIRMAN: In a way the third pre-supposes examination of the first two.

PROF. MEISEL: I do not think we are ready to deal with that kind of question until we have gone through the things that you have outlined that we were talking about. Do I understand that the proposal is that we abolish the present Committee structure and substitute a new set of Committees which would examine the same common

problems to all?

THE CHAIRMAN: That is my understanding.

PROF. McWHINNEY: It is true, I think, that the first two of these three things you outlined are the basic two to any conclusion of policy questions. Nevertheless we are aware, from our general experience that a partial answer or a partial hypothesis about where your research is going does shape to a considerable extent the direction and scope of the research you set yourself.

I can hardly avoid in my position -- and I am sure this is true of Bill and John and others -- giving public addresses on the questions you outlined. As a constitution lawyer, you get these requests, and you cannot duck them. You can duck them by being diplomatic and presenting all possible sides, but I think it would also be helpful, whether we make the decision or the Premier makes it, it would certainly be helpful in shaping the scope of the research on questions 1 and 2 to at least have some knowledge of the government policy in these matters.

I certainly have spoken so much on this, and I am sure Bill and John and others are in the same position. I certainly have certain policy preferences in relation to a number of these seven questions you have outlined, and

I would not object to going into them as a Committee (it would be very interesting) but certainly 1 and 2 have got to be done.

DR. FORSEY: Do I understand in effect 1 will be done by people simply presenting us with the facts as they are?

THE CHAIRMAN: Yes, I should say it should be our responsibility here to gather together and present what we interpret the policy. I am sure everyone here, as I have, has thought often: how do you define and identify policy in some of these rather nebulous areas? This would not be an easy task, but I think we can set out, let us say, ten apparent principles or propositions. We can review these here and you can perhaps take issue in terms of what you have reached to be the apparent policy, and we can go back and refine them and perhaps develop it.

PROF. CREIGHTON: It is just a fact-finding operation, the present statement of Ontario's policy so far as it has been stated.

THE CHAIRMAN: Yes.

PROF. MEISEL: This is assuming there is an Ontario policy, rather than policies.

THE CHAIRMAN: I was trying to be more diplomatic than that in saying this.

PROF. McWHINNEY: This did come up in our Committee meeting this morning. We were wondering

how to interpret the Premier's recent speech on if there is to be a constitutional conference.

4 Mr. Diefenbaker made a very dramatic proposal for a convention, but I thought Mr. Robarts' statement was deliberately more guarded and could cover Dominion-Provincial conference. It would be helpful to know actually what he had said as distinct from what the newspapers said, and if there is anything deliberately guarded or otherwise in it or whether it is an endorsement of the Diefenbaker proposal.

THE CHAIRMAN: The only light I can shed on it is two points. First of all, there was a general sense, I understand, of those who either heard or read his remarks, that he was apparently supporting the proposition of Mr. Diefenbaker, supporting for the first time the idea of the constituent assembly. He has assured me that nothing was further from his intention.

---(Laughter)

I think this is important for us. The declaration he made there was that there should be a conference on Confederation; there should be a conference which would precede any constituent assembly, any constitutional change, any reformation in the formal structure of Confederation, a conference which we prepared for and in which we debated openly from the political level what the

various elements and various jurisdictions of the country wanted to see from their Confederation.

So in a loose sort of way this was taken by some, and in the press I know, to be the same thing.

Ray, I do not know if you have heard anything further in the Premier's office on that point, but certainly my understanding of what he said was that he had not intended to either lead himself or be led into that position.

PROF. McWHINNEY: This is what you are casting under heading one in your statement, summation of past government statements with or without some confidential addendas of what the policy position is.

THE CHAIRMAN: Right. I think I shall have to try in many instances to ask the Premier to spell out a bit to me some of these matters, and if he were willing this might be at that stage one useful function for the meeting I suggested earlier.

PROF. BRADY: Mr. Chairman, No. 2 in what you mentioned, namely the review of our federal system today, which I think involves (like the first item) a factual study of what is actually happening, what is the trend and so on: that seems rather basic to any attempt to advise a government like Ontario about its course. In other words, it must be familiar first with really what is happening, to try to clarify our minds as

an Advisory Committee in the matter. That is in a sense, would you not agree, somewhat related to the Premier's remarks about a general conference on federal matters.

THE CHAIRMAN: Yes.

PROF. BRADY: He, I think from what you said, is thinking of getting units together to think about just what direction our federation is taking, and what we as representatives of governments and so on, think of this.

In other words, our task under 2 would be pretty closely related (this is how I am interpreting the matter) to what is troubling the Premier, what he is concerned about in the present situation.

THE CHAIRMAN: Let me answer that a bit. What he is troubled about here is the direction that recent Federal-Provincial conferences have taken. I think I mentioned this in the sub-committee the other day, that the Federal-Provincial conference, in his view, has become a highly political form in which you are fighting, negotiating, scrambling over particular pieces of policy or particular developments in negotiations, and as a result the meeting has not really become a conference in the formal sense, but it has become a sort of assembly for political-one-up-manship, I suppose, whereas as a politician he

understands the reasons for this.

I think his feeling is that if the Federal-Provincial conferences continue in that direction, a number of people are going to become less and less inclined to take them seriously.

Now, can it be, therefore, that the Federal-Provincial Conference of Prime Ministers and Premiers has become virtually the annual meeting, or some special conference can be devoted not to the political postures for Medicare or for off-shore mineral rights or any particular problem, but rather can be a conference directing its attention to the federal structure of the country? What are the problems of federal structure, not what are the problems of Medicare or off-shore mineral rights; what are the problems of the federal structure and who do we all feel about these things, where should we be going with it?

Now, if one were to be successful at all in creating that type of atmosphere, then we certainly would have a job to do because here we would be in a position too, the government would be in a position to put forward its recommendations for consideration.

I believe that this is a proposition certainly from the side of many of the provincial premiers, as I gathered their statements, that this is the type of conference they will press for and push for,

so that here we want to be prepared.

PROF. CREIGHTON: It seems to me, Mr. Chairman, as we said at the little committee meeting, that it was not simply a question on No. 2 of finding out where exactly the federation was going and had been going over the past generation or the last ten years or something of that order; but that we should also make up our minds, if we are to be an advisory committee, as to whether that had in fact gone too far or gone far enough.

In other words, there has to be involved a judgment of this committee on the kind of federation that the government of Ontario ought to press for, and it is not sufficient to know what in fact is happening, but that is only preparatory to making up our minds about what should happen, whether it should be arrested at a certain point or develop to a certain point.

THE CHAIRMAN: That is exactly the point.

PROF. McWHINNEY: Would you favour making a conclusion of this or perfecting a proposition much as a court does, a majority of our opinions, presenting broad areas of authorities; because I think it is quite clear on many of these questions that there could be very substantial divisions within the committee -- and if it is a properly constituted committee presumably this should be so -- so that it would not necessarily focus this on a

specific conclusion so much as possibly indicating broad alternatives.

PROF. CREIGHTON: I don't know. I should hope to get further than that.

THE CHAIRMAN: I think we can cross that bridge when we come to the substance, whether we can, in the unlikely event of a unanimous view, or whether we ought to suggest general directions, or whether we even wish to put forward alternatives, I think we can settle; but is there general agreement that these first two propositions or techniques at least should be our approach at this juncture?

DEAN LEDERMAN: Mr. Chairman, I think I would agree on this point. The two things go together. You have to comment on general topics, the seven general topics, which means taking stock and systematically reviewing our institutions in particular. It is out of the particular data that the general inferences will arise, the general readings will arise, that will lead us to conclusions on these seven topics.

DR. FORSEY: You are going to come up against most of these particular things.

THE CHAIRMAN: That is true.

DR. FORSEY: Inevitably.

DEAN LEDERMAN: In the immortal words of McKenzie King, these other things are stars to

steer by.

DR. FORSEY: Chart and compass.

THE CHAIRMAN: May I take it there is general agreement that we should conduct the two matters of enquiry as discussed; that this should lead to some or other of these particular points, and probably leave them for the moment; go on to our particular recommendations, and, before we adjourn, decide on the approach which involves two things? Who does this work as a matter of initiative, and, secondly, how often and in what manner we should be meeting?

Now, the sub-committee the other day came to the somewhat crushing conclusion that probably in the next little while this really meant we were going to have to be meeting in one form or another more often, and talking at each other rather more often. John.

PROF. MEISEL: I would like to suggest the scope of your topic 1, making an inventory relating to the position of the Government of Ontario, be extended somewhat. Is this the time to discuss it, or would you like to leave it.

THE CHAIRMAN: Yes, I think ---

PROF. MEISEL: It seems to me there is a vast difference between what kind of interpretation of Ontario's position you get from looking at the Premier's statement and papers prepared for the

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Dominion-Provincial Conference on the one hand, and on the other hand looking at what is really being done by various departments of the Government of Ontario. I suspect that we find differences. We think we may be going in one direction, but when we actually look at what various decision-makers do, we thought that there is not the same kind of direction. I think there will be a very important problem of defining the terms of reference of this inventory.

THE CHAIRMAN: Yes.

PROF. MEISEL: What are the important areas which we ought to examine to find out which way Ontario has really been going?

THE CHAIRMAN: I agree that we must do both. We must look at the programmes; we must look at principal ministerial statements and activities; and we must look at the conferences and the Premiers' statements. I think we must do all of this.

I would suggest that our policy sub-committee, which plans to meet again next week, should give my people fairly explicit terms of reference and anticipate some of these problems.

PROF. CREIGHTON: Yes, Mr. Chairman, thank you. If you come back to a full research review of all the activities of the Province of Quebec, it appears to me we would never get down to anything.

THE CHAIRMAN: I think, though, the principal matters can be contained here, and we will have to exercise some judgment as to what is important.

If I may leave that, may we go on to the sub-committees, and I said I would like to tidy up our stock of work here, either by coming up with explicit recommendations from this work, or (I suspect in the more likely case) referring them for further editing, preparation or treatment.

The constitutional -- Bill, were you in the chair there?

DEAN LEDERMAN: I can give you the result of our deliberations. We looked first at the matter of the provinces and conduct of foreign relations. This was dealt with in Prof. Laskin's position paper. We came up with the following conclusion, which is in part the taking of position and in part a suggestion that there is one matter that needs further study. If I may read what I took here -

"Canada has a single international
"personality and therefore only the
"Government of Canada -"

meaning thereby the Federal Cabinet -

"... can make international agreements
"creating obligations in international
"law."

The second part of the statement is:

1890-1891

Journal of Management Studies, 19(1), 67-80.

copy to the HRC/IO

"Past practice indicates that there
"are some informal agreements not
"creating obligations in international
"law, between provinces of Canada and
"foreign or Commonwealth governmental
"authorities. There should be a study
"of the nature and character of this
"group of agreements, with a view to
"possible further recommendations;
"but until we know more about what they
"are, we do not feel like saying anything
"about it."

So this amounts, I think, pretty much to taking the position that Mr. Martin, Secretary for External Affairs, has taken on the existence of Canada's international personality, and that the federal Cabinet is the voice of international Canada, the one international Canada. This leads to the proposition that only the Government of Canada can conclude an international agreement creating obligations in international law.

We do not deny that there is this other class of agreements, but we do not think they create obligations in international law, but we do think they need further study. We are not too clear on what they are, but we know there are some of them.

The importance of it is, of course, that

our friends in Quebec are fastening on these informal agreements involving provinces and other governmental authorities, and drawing, I think, quite unwarranted inferences from the existence of them.

That is our position on the international matter, Mr. Chairman. Do you want to stop there and discuss it, or shall I deal with the other matters that we covered?

THE CHAIRMAN: Perhaps you might go through the whole and then ---

DEAN LEDERMAN: I will go through the list. It will not take long.

The next thing we addressed ourselves to was the position of the Supreme Court of Canada, and we agreed on this statement of the position there.

"The Supreme Court of Canada as at
 "present constituted, should continue
 "as the final tribunal for constitutional
 "decisions. The Supreme Court itself
 "should have the last word on what is a
 "constitutional issue. Subject to this
 "there will be no objection to final
 "determination of Civil Code issues arising
 "in Quebec by the Provincial Court of
 "Quebec "

That is the position we took there.

Now, we looked at two other matters -- the

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That is our position on the international ...
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THE CHAIRMAN: Perhaps you might go through ...
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matter of Federal-Provincial Conferences, and we noted that this is in Dr. Brady's hands as a matter of research, so we were content to have it that way, and perhaps Dr. Brady might tell us where the matter stands.

Also there was the paper done by a research student whom I supervised this summer, on the further question of constitution-making in other places.

You have already received the document, I take it. He did particular papers on five countries who have attempted federation from a British background, and then wrote a summary paper. It is only the summary paper that has been published. We could have the other more detailed paper available if you want it.

The purpose of this paper was to provide background for these proposals that are circulating in the country at the present time for a constitutional convention or conference, and to draw attention to the historical facts of how it was done in other countries and, in doing that, to raise points that have to be faced if you are going to talk seriously about a constitutional convention or constituent assembly of some kind.

We do not have any position to take on this particular paper by Mr. Mesbur, as background material, or would be background material for the

The first of these is the fact that the paper is not
published in the usual manner, but is published in the
form of a book. This is a very unusual thing to do, and
it is not clear why it should be done. It is possible that
the book is intended to be a collection of papers, or that
it is intended to be a book of essays. It is also possible
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issues that would confront us if the Fulton-Favreau formula is re-opened, as it might well be, I suppose, if the question of accepting it is re-opened. We did not feel there was any point in taking a position on that this morning. We were not ready to. Until Mr. Wilson acts in London and Mr. Lesage acts in Quebec City, followed by Mr. Pearson in Ottawa, the issue does not come up again anyway, but it seems to be looming. Those were the four points we dealt with.

THE CHAIRMAN: Thank you very much.

DR. FORSEY: We have some suggestion to make about the procedure of handling material that came in, about handling of papers that were done, for example, by students.

DEAN LEDERMAN: Yes. Perhaps you might speak to that, Eugene.

DR. FORSEY: My recollection of our proceedings this morning was, we ended up with some support of this. It arose out of John Laskin's paper which, in my judgment and I think that of one or two other people, had some serious deficiencies, which apparently got to us in what I believe is described by draftsmen as a blank and imperfect state, without Professor Brady, who was really supervising it, having had an adequate chance to look it over and present it to us. We had the feeling that possibly these things should not even

get to the main Committee after this unless the person who is supervising it is reasonably well satisfied with their quality. In this case I do not think Professor Brady was, but I do not think he had the opportunity to see the thing before it suddenly got to us.

We felt that it was desirable that in future we should not get something that had not received the nihil obstat or imprimatur from the person who was supposed to supervise it.

PROF. BRADY: I think it is a very good point, Mr. Chairman.

PROF. CREIGHTON: The same thing happened to the document by the person who was working under Professor Fox.

PROF. McWHINNEY: Really the supervisor should accept the responsibility for all statements of fact and the soundness of the recommendations.

PROF. CREIGHTON: It is a large order, but I do not think that you can do anything until you at least see it. Did you, Alex?

PROF. BRADY: I saw it before, but just two or three days before this Committee met, and I was under the pressure of other things and read it very hurriedly and felt it had some defects, but I could not do any more about it at that stage.

DR. FORSEY: The minute I saw it, I sort of jibbed. It had not reached my house until the

day of the meeting, but when I got back I took a look at it and discovered some statements that to me were staggeringly wrong, and the whole tone of it to the effect that in the early 1880's the steam had all gone out of the centralizing move, which is unadulterated nonsense. That is the period of the three disallowances of the Ontario Streams Act; it was the period of the McCarthy Act, the period of disallowances of Ontario Acts on the grounds of conflict with the McCarthy Act. And to say there had been eight disallowances between 1867 and 1887, that is perfect nonsense. There were 45.

THE CHAIRMAN: I think this point is extremely well taken, and I, of course, must accept, I think, what blame there is for those two matters, because it was done badly.

You see, in the case of students working directly under Professor Meisel and Dean Lederman, in terms of geography, I suppose you were in direct contact with the people, and the experience has clearly been much better there. In this case we were not as attentive as we should have been about getting John Laskin under Professor Brady's thumb. Paul, in your case, again, I don't know what opportunity you had to really see Mr. Leduc.

PROF. FOX: There was a misunderstanding, I think, between Mr. Leduc and myself on this score,

but I will say this. Mr. Leduc looks on his prepared draft which you have, as a draft.

THE CHAIRMAN: Yes.

PROF. FOX: And stands ready to correct it in any manner or supplement it in any manner you wish.

As I mentioned at the last meeting, I suggested anyone who had any comments on it might forward them to me, and then through me they might go to Mr. Leduc.

THE CHAIRMAN: Yes.

PROF. FOX: But certainly there was a breakdown in procedure there, although I do not know how serious it is because I suspect that, as in this case Mr. Forsey is commenting on, it may be very useful to have comments on a paper before it is in final proof by a person other than the supervisor; because some of these problems can involve areas that require expertise of the sort that only Eugene Forsey has.

DR. FORSEY: Leave out the blarney.

However, they cannot come to us in too poor a state.

THE CHAIRMAN: No, no.

DR. FORSEY: My impression, for example, is that there were Dominion conferences between 1926 and the later period that young Laskin's paper outlined. Something may be missing from my bundle, but it seems to me there was a complete

gap there with nothing said. Then there were these frightful howlers that were committed sheer matters of fact.

I think if the thing had been submitted properly to Professor Brady in good time, he would have undoubtedly spotted these things and insisted on it being in rather better shape.

THE CHAIRMAN: I think the point is well taken. I think obviously these things, although they need not go out in their absolute final form, must go out in a decent shape to the satisfaction of the supervisor on any normal grounds of quality and organization and so on.

PROF. FOX: May I just repeat what happened in Mr. Leduc's case. He went ahead and got this copy mimeographed and sent to me, and then there did not seem to be any point in my trying to revise it without you people seeing it. You might as well see it.

THE CHAIRMAN: That was a most unfortunate lapse on his part, I think.

Coming back to the substance, where do you wish to go on the recommendations put forward by the Committee?

PROF. FOX: May I ask, on a point of information, if Dean Lederman would repeat the second part of the point he made on the Supreme Court of Canada. The first point I got, but I didn't get the second.

DEAN LEDERMAN: Better repeat the whole thing.

"That the Supreme Court of Canada as
 "at present constituted should continue
 "as the final tribunal for constitutional
 "decisions. The Supreme Court itself
 "should have the last word on what is a
 "constitutional issue."

We regarded that, however, as very important.

"Subject to that, there is no objection
 "to final determination of Civil Code
 "issues arising in Quebec --"

in other words, French Civil Law issues arising
 in Quebec -

"...being finally determined by the
 "Provincial Court of Quebec."

But always subject to the right of any citizen to
 apply to the Supreme Court of Canada itself in
 Ottawa and say: "There is a constitutional issue
 here, and if you will agree with me, give me
 permission to come before you". Subject to that,
 we do not have any objection to Quebec Civil Law
 matters being finally in the hands of Quebec Courts.

PROF. FOX: Fine, thank you.

PROF. CREIGHTON: This is a positive attempt
 to meet the criticism that Civil Law cases have
 not been decided properly in the Supreme Court.

DR. FORSEY: Messed up by the common law.

MR. MAGONE: I think Dean Lederman might indicate the reasons for our recommendation in that regard, leaving out the common law proposition.

THE CHAIRMAN: Excuse me, I wonder if we might work through this systematically as reported, and start on the last paper on Treaty-Making, and go on to the Supreme Court and so on.

DEAN LEDERMAN: What we were proposing there, the statement of position is:

"Canada is a single international
"personality. Therefore only the
"Government of Canada can make international
"agreements creating obligations under
"international law."

That is followed by this statement:

"Past practice indicates that there are
"some informal agreements not creating
"obligations in international law, between
"provinces of Canada and foreign or
"Commonwealth governmental authorities.
"There should be a study of the nature
"and character of that group of agreements,
"with a view to possible further
"recommendations."

Possibly, once you uncover what these are, possibly further recommendations might take three forms. You might say: "Well, we should do nothing. The provinces should continue with this

14. In accordance with the provisions of the law, the following information is provided:

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type of informal agreement as they see fit". You might say: "at least there should be a register in Ottawa and Ottawa should be at least informed what they are" or you might go further and say: "They must be cleared with Ottawa". We do not know what we would want to see or what the Committee would want to see unless there is some uncovering of just what this amounts to.

PROF. CREIGHTON: The nature and extent.

DEAN LEDERMAN: The nature and extent of these agreements.

7 DR. FORSEY: It is even conceivable we might say that the thing has gone too far and there should be some limitation upon this.

DEAN LEDERMAN: Yes.

DR. FORSEY: Upon the character of such agreements.

DEAN LEDERMAN: Yes.

PROF. MEISEL: The question I would like to ask is, if we accept this report, this first part of it, are we in effect saying: "This is what this Committee believes", and are we then going to transmit this to the Premier as the judgment of this Committee; or is this simply a sort of stock-taking on our part where we have looked into a problem and this is where the balance of our judgment rests at the moment, but we are not going to send it forward as in fact a recommendation of what the

position of the Government of Ontario ought to be in this matter?

THE CHAIRMAN: I think the Committee has to decide, as I suggested earlier, to do one of two things: to make a specific recommendation on a particular issue for transmission to the government, or to agree that we are not yet prepared to do so on that particular point for certain reasons.

PROF. McWHINNEY: I presume it was mentioned the first -- I think it did, because this is something we were unanimous on, what we affirmatively reported on. On the second part, I think it can be said at least some of the members of the Committee wanted to make a recommendation against these agreements.

I have already gone into print, although it is still awaiting publication, the other way. I can see nothing wrong with these agreements that do not raise international law obligations.

So here, quite clearly, is where the Committee itself postponed the substantive conclusion, but clearly I think we assumed that where we reached a consensus this should go to the Committee and go forward as the recommendation to the Premier, a policy recommendation.

DR. FORSEY: This is what I thought.

THE CHAIRMAN: Then we come to the point here as to whether the whole Committee is prepared

to accept the recommendation of the sub-committee on the first point, and to refer the second point for further examination as suggested.

PROF. CREIGHTON: Or whether even the first point has to be postponed until we conduct this systematic review of this state of affairs as at the present time.

THE CHAIRMAN: I suppose this is an alternative.

PROF. CREIGHTON: Making up our minds about other related areas.

DEAN LEDERMAN: Or it might be tabled, because two-thirds of the members here have not been thinking about this issue as specifically as the one sub-committee has, and they might want just more time.

PROF. McWHINNEY: We have left the controversial issue, I think, deliberately unresolved by calling for a further report, and that is clearly indicated, if you call it a resolution, the point of consensus, it is clearly indicated. We are affirming 1 and 2, but on 3 we cannot yet, we will not make up our minds, we call for further report.

PROF. CREIGHTON: But in the first two, unanimous, affirmative.

PROF. McWHINNEY: Yes.

THE CHAIRMAN: The Policy Research Committee, of course, can take this matter on, and decide in what manner to complete the information that is

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required. So I suppose our choice here is whether to hold up the first recommendation for eventual presentation of a complete package, or whether to transmit the first recommendation with the qualification that the other matters are to follow.

DEAN LEDERMAN: I should say, Mr. Chairman, this recommendation for a study and for more information on these informal provincial agreements is not a stall because we cannot agree. There is this genuine lack of information on this point.

THE CHAIRMAN: That is fair enough.

DEAN LEDERMAN: We may be disagreeing when the returns are all in.

PROF. BRADY: What would be the recommendation of the sub-committee on the constitution, to keep the first part about the Supreme Court and its role until the investigation of this second section were made or what?

PROF. CREIGHTON: We are on treaties.

DR. FORSEY: Haven't got to Supreme Court yet.

DEAN LEDERMAN: This is the treaty issue, Dr. Brady.

PROF. McWHINNEY: This is the state of the law as it now stands, and the recommendation that no changes be made other than presumably by the formal way of direct amendment, and certainly we should not tolerate informal clauses

being developed on it counter to these principles.

DEAN LEDERMAN: Really what we are doing is endorsing the statement Mr. Martin made.

PROF. CREIGHTON: Very much more up to that point.

PROF. McWHINNEY: Endorsing the present law.

DEAN LEDERMAN: What we think is the present law.

PROF. MEISEL: Mr. Chairman, I think we are really feeling our way in these things, and I think we have really come to a very important general policy decision in our procedure. In this case we are going to decide whether we accept a recommendation of the sub-committee fairly quickly, without really examining its full flavour and impact, or whether we are going to always review at great length the work of the sub-committees.

I simply am not prepared, with my meagre legal knowledge, to rely on an oral perception of what has been said and come to any kind of decision. I could not say "yes" or "no" here simply because I am untutored in these things. If I am going to recommend a report, then I really must feel that I have at least followed whatever way I have of examining the proposal.

So that I would prefer personally, unless there is great urgency about this, to have the report circulated in writing, so that we can look at

it, and at the next meeting perhaps we can then decide. Now, if there is some need for quick action ---

THE CHAIRMAN: I do not think there is a matter of urgency here. I am not suggesting this was a policy precedent, but at the last meeting the plenary Committee took one recommendation of the Cultural sub-committee which was put forward to the Premier. I, of course, was asked again: "What does this represent?" and I replied: "Well, this represents a unanimous recommendation of the full Committee". But I am certainly willing to be guided by the feeling.

PROF. McWHINNEY: We exercised as a Committee a very admirable degree of self-restraint in relation to the third point. We are all well informed on this issue and could have made a recommendation in respect of these informal agreements, but we simply thought it was an issue that would benefit from further study and further committee work here. The Committee here has shown, I think, commendable self-restraint, and we have after all had the paper circulated on treaty powers, and they have been available. In a way, I am not sure, if you appoint specialized committees, whether at the same time you exercise self-restraint, that you should not in a way give them a certain degree of leeway unless in your reading of the papers circulated

you are positively unhappy about them.

MR. GATHERCOLE: Mr. Chairman, I certainly support the desire to move ahead with something that is concrete. I mean, we can chatterbox around with this matter for a long time, and the weeks and the months pass, and you finally wind up without having anything very tangible before you. So even though the conclusions might be tentative and subject to later consideration and revision, I think it is highly desirable that we do move forward, even though the conclusions are tentative.

One thought that occurs to me is that so many people think very freely and loosely about amending the constitution, but when you get down to the question of what kind of constitution is going to suit Canada in the years ahead, this raises all sorts of questions. These are two items here on the Supreme Court and the treaty-making power, which are highly controversial today among the provinces, but they are two very important points in connection with it.

Now, maybe there are others, and, Dean Lederman, I do not know what other matters you have been considering in your sub-committee and what you are going to recommend, but I do feel very strongly, Mr. Chairman, that the sooner we move into these areas and grapple and deal with the specific points in here, the sooner we shall arrive

at some conclusion as to what is a practical proposal, what is conceivably a workable constitution or framework for the country.

8 Maybe there are not so many changes that will be made. Frankly, I hold that opinion. Nevertheless I think we ought to get down to the specifics here and the concrete matters, and even though the conclusions are very tentative and we have ample room to revise them in the future, I think we ought to move very quickly ahead.

PROF. MEISEL: I do not think we can advise the Premier on something that we consider to be tentative. He may act on this, and we cannot then, after he has made a public statement or committed the province on a particular policy, we cannot say we have had second thoughts and now we think this is different. In this kind of area we must be absolutely firm and not say anything until we have a real feeling and opinion. You are quite right, that we must look at these things and start thinking about them ourselves, but what we tell the Premier surely must be the very best advice that we can possibly produce, and we must be able to stand behind it.

PROF. McWHINNEY: To be specific, these are not tentative recommendations.

PROF. CREIGHTON: These are not tentative recommendations at all. This has been going on since

the Committee began its labours actually.

MR. GATHERCOLE: All I was saying is that very likely this would hold all the way through, that we re-affirm, but what I am saying is that simply because we have adopted it or this Committee would accept it now, does not mean that we ought to close our minds to possible revisions in the future if such revisions should prove to be advisable. That is all I am suggesting.

As to the other matter of passing this on to the Premier and saying: "This is what the Committee recommends and it would be all right for you to make an announcement of it", I think this is not the right way to proceed. I do not think it should be piece-meal or handled in a piece-meal way. I believe that these are two of the items (there are a lot of others) that ought to be considered and then it should be presented to the Premier, and maybe in a sort of round-the-table discussion way, as a package; but to feed up to the Premier a few recommendations -- maybe you could acquaint him as to the recommendations of the sub-committee and the committee's thinking, but certainly I do not think unless he is pressed for the information or wants to have a definite decision, that these matters should be fed to him piece-meal.

DR. FORSEY: If we arrive at a conclusion on areas which appear to be urgent -- and I think

this is a matter of some urgency -- then we should be prepared to let the Premier have the benefit of whatever conclusion we can come to.

PROF. CREIGHTON: If he asks for it.

DR. FORSEY: Possibly this particular matter should not be decided today and perhaps people should be given a chance to look at it and to look at the papers that have gone into it, Mr. Justice Laskin's paper and the other documents that we have had, and then come to a conclusion on it next time; but I do not think we should nonetheless take the view that until we have a complete document on everything under the sun to present to the Premier, we should sit gagged and bound, deaf and mute, offering him no recommendations whatever.

This subject is being discussed all the time, and more and more fantastic proposals are being made on the subject, at least what appear to me to be fantastic, and if this is the conclusion we have come to or if this is the conclusion we come to after another month's reflection, I think we might as well forward it to the Premier and say "This is it".

It seems to me an elementary point about the nature of Canadian federalism that if we are not prepared to come to a conclusion on this, we may as well fold up and go home today. If Canada has not got one international voice in this matter,

then we may just as well forget all the rest of the thing and say: "All right, we have arrived at the conclusion that Confederation can be broken up piece-meal, bit by bit, or all at once, but the thing is done for".

PROF. McWHINNEY: It is, of course, required, and the point should be made, in effect our conclusions so far as the recommendations presupposes a choice as to the answer to the question. I think you have said that.

DR. FORSEY: Yes, it does.

PROF. McWHINNEY: That our conclusion was, as far as this matter was concerned, we were quite clear we wished to make it and we deliberately withheld a recommendation even though I think between us we had enough information to do it, on the nature of the informal agreements.

I happen to like the informal agreements as long as they do not have international law consequences. Some people do not like them even if they do not.

Here, where we have a conclusion, on the first two points I think the Premier is going to have to take positions on these fairly quickly, and I would feel it ought to go up. Whether he wants to release it then is his judgment, but I do think it does involve an answer to question 1 of the seven points that we have got, and it should be recognized that this is so.

MR. GATHERCOLE: Mr. Chairman, I did not realize I was stirring up opposition, because these are two recommendations with which I wholeheartedly concur. It may be the circumstances are such that these two should be placed before the Premier so that if the occasion arises he can make his position known on them; but I was sort of trying to suggest that it would be inadvisable to deal on a piece-meal basis with everything that is recommended by the Committee, so that we are feeding up to him one thing at a time, rather than trying to put it all together in an integrated package so that he would be able to examine it from the whole.

It may be, as Dr. Forsey says, that these are two matters which are so fundamental and so constant on their own and of such urgency that they should come before him, and I am personally wholeheartedly and completely in agreement with that.

PROF. BRADY: Mr. Chairman, I think the Policy Committee was very much persuaded that it should try to present to the Premier a composite view of the federal problems, an impressive view of the federal problems. That does not, of course, eliminate the wisdom of making specific suggestions before that, before we can do that, but that we should try in the course of the winter to arrive at some general view on Confederation that we can

submit to him.

MR. GATHERCOLE: That is the burden of my whole case, really.

THE CHAIRMAN: Incidentally, for what it is worth, you will see in the speech made last Friday that I had been lamenting my fate from time to time to the Premier, that I was always subject to the pursuit of the press about what this Committee was doing; and I am relieved because he said, "Well, I think I will use this occasion to set out some of the areas that the Committee is working upon". You will see on page 3 of that speech that he did give a fairly quick run-down on what we are doing. So at least our areas of activity are part of the public domain now, which is some relief.

DR. FORSEY: I venture to suggest a specific question now is: should these first two recommendations of the sub-committee be adopted by the Committee and forwarded to the Premier for such use as he chooses to make of them, or should the matter be deferred until the next meeting?

THE CHAIRMAN: On that point I would like also to ask how long it is going to take us to get the other material which will be necessary to conclude this. Will the members of the Committee be in a position to complete the information in time to circulate it to the Committee for consideration in advance of the next meeting?

DEAN LEDERMAN: Not the second part.

THE CHAIRMAN: No.

DEAN LEDERMAN: I think this is like some other matters that we have to deal with. The information on these provincial informal agreements is not systematically available.

THE CHAIRMAN: No.

DEAN LEDERMAN: It is in the files of government departments in ten different places in the country. We have not solved the problem, we have not at all the power to get at this information.

PROF. McWHINNEY: At least a couple of months full time work, or perhaps six months part time work, but it is a substantial job.

DEAN LEDERMAN: I suppose what can be done quickly is a survey of the Ontario Government files, to the extent to which the Ontario Government is involved, because these files are in the city and the people who know about these agreements are in the city. It might be the subject for a staff study because it is in the Government domain.

PROF. McWHINNEY: It would take even one man working in Ontario a month to do it thoroughly.

THE CHAIRMAN: What do we have in the mill, Don?

MR. STEVENSON: I have been thinking of this. If we put it up at the Policy Research sub-committee next week, meantime we might see

what there is in terms of available people.

DEAN LEDERMAN: It sounds rather like something for the Policy Research Committee.

THE CHAIRMAN: What is your wish then, before the next meeting to put forward these two recommendations now, with the other information that is to follow, or to suspend judgment until the next meeting in expectation of arriving at some reasonable support in the other areas?

DEAN LEDERMAN: My feeling, Mr. Chairman, is that I do not want to see too much delay, and I do not think, when the sub-committee is bringing forward recommendations to the full Committee, to expect snap decisions from the members of the two-thirds of the full Committee who were not in the sub-committee. Perhaps a month should go by, but I think a month would be enough, and perhaps a decision one way or the other should come with the meeting the following month.

THE CHAIRMAN: Could we do this then? The Policy sub-committee will be meeting next week. Attempt to have them determine what approaches will be sufficient to complete this, and try and have that done between now and the next meeting, and at least have sufficient assurance that we have anticipated some of the side effects of what we are recommending, and at the same time give all of us here time to reflect on these questions and

to look into matters ourselves if we have any lingering doubts, and come to a conclusion at that time. I think at this juncture, whereas I believe we must be cautious of postponing indefinitely, that probably another month is not disastrous.

DR. FORSEY: You might find even by the time of the next meeting that the investigations on the third point had not been concluded, but I think we ought by that time to be able to make resolutions on the basis already before us, on these two first recommendations - are they sensible or not?

THE CHAIRMAN: Is that agreed?

PROF. CREIGHTON: All right.

PROF. BRADY: Agreed.

THE CHAIRMAN: That is fine. May we go on with the Supreme Court question?

DEAN LEDERMAN: This applies to the question of international agreements.

MR. MAGONE: Before we get to that, I would like to make some few remarks about the recommendation in connection with international agreements. I think the Committee was unanimous in this conclusion that insofar as the first part of the recommendation is concerned we felt that that is the law now: the legal government of Canada is the only international entity. The provinces obviously are not.

The question I raise now is this, and the reason I am mentioning this now is that I think it

is implicit in something Mr. Gathercole said that he may have a misunderstanding about; that is, we were not dealing with the constitution or any amendments to the constitution; we were merely saying that Canada is an international entity and there is only one international entity for Canada, and that our recommendation does not indicate that we are of the opinion that the B.N.A. Act should be amended for the purpose of giving to the Parliament of Canada a right to enter into agreements, into treaties with various countries which will entrench upon provincial objects. It is a question that we have left; we did not deal with that.

DEAN LEDERMAN: We did not deal with that, that is right.

PROF. CREIGHTON: There is no ruling one way or the other on the Labour Convention.

DEAN LEDERMAN: We are not getting into impact of international agreements inside the country, this is not touched on, that is right; but I think as far as the statement goes, we are not only saying this is what we think is the legal position -- this is the complementary development that comes in the development of Dominion status.

MR. MAGONE: It is the law now.

DEAN LEDERMAN: It is the law now.

PROF. McWHINNEY: It is conceivable, of course, that this is involved in an expression of

opinion on the treaty implementation.

MR. MAGONE: I think so.

DEAN LEDERMAN: As far as this goes though it involves an expression of fact as to what the position is, an expression of what we think the position should be.

PROF. CREIGHTON: Yes.

DEAN LEDERMAN: I think we are agreed on that, but we did not touch the question of treaty implementation, and there is a very vital area. Even conceding that the power to make international agreements completely rests on the Federal Cabinet, if the power is used there are many ways this power can be used that would vitally affect the provinces, and what sort of consultative machinery there is for it which we do not have.

DR. FORSEY: We did not foreclose these things.

MR. GATHERCOLE: I was not suggesting, with reference to Mr. Magone's observations, that this involved any change in the constitution. What I had in mind was that this recommendation does touch upon two integral parts of the constitutional framework which may come into operation or which is in operation at the present time, and people are saying: "We need a new constitution to fit the conditions of the day".

You have made two recommendations which would

be, as I see it, essential parts of the constitutional framework, and you are saying: "We hold for the status quo. We believe this works well", but nevertheless they have a bearing on the type of constitution we might have in the future and I think are important from that point of view. In this discussion I am thinking of what will be the constitutional framework which will work best for Canada in the future, and I think these two decisions add two provisions which are indispensable in any constitutional framework.

DEAN LEDERMAN: Perhaps waiting an interval of a month is a good thing.

PROF. McWHINNEY: I have not followed Mr. Magone's point that he made in committee, and I think it might be useful to include this when it is involved in ruling one way or another.

DEAN LEDERMAN: This can be done by perhaps waiting one month and do it next month.

PROF. McWHINNEY: I think it does impress me that it should be included.

DEAN LEDERMAN: We will make sure that the Secretary gets it.

THE CHAIRMAN: We will follow up with this. May we go on with the Supreme Court.

PROF. MEISEL: We will get copies of this before the next meeting?

THE CHAIRMAN: Yes.

DR. FORSEY: It might be advisable if on these particular points the specific recommendations of the Committee can be sent out ahead of this new document, which takes a little while to follow. I do not think it is going to be useful to John Meisel if he has to wait until next month. This is very brief and could be put on a half sheet of paper.

THE CHAIRMAN: We will have to get from each of the sub-committee Chairmen a rather specific statement for this purpose and circulate it immediately.

DEAN LEDERMAN: I think I understand what is wanted.

THE CHAIRMAN: Supreme Court then.

DEAN LEDERMAN: Let me remind you of the statement. This could be left over, though we do not feel the need for any further research at this time.

"The Supreme Court of Canada as at
"presently constituted should continue
"as the final tribunal for constitutional
"decisions. The Supreme Court itself is
"to have the last word on what is a
"constitutional issue. Subject to this,
"there is no objection to final determination
"of Civil Code issues arising in Quebec
"by the Provincial Courts of Quebec."
Now, there were two reasons why we expressed

the possible concession to Quebec feeling in that way. The first is that we did not want, after discussion I think we came to the conclusion that we did not want a special Civil law chamber inside the Supreme Court of Canada, because then you would start the Quebec people talking about: "You are deciding Civil law questions. There are not enough Civil law judges. Give us more". If they want Civil law judges, French judges determining French Civil law issues which are non-constitutional, no constitutional questions involved, stop those in Quebec and you won't get any arguing about how many Quebec judges ought to be on the Supreme Court of Canada.

We do not generalize this and the common law problem as to say: "Stop decisions on non-constitutional issues in Manitoba at the Court of Appeal for Manitoba", because there is a very decided value, I think, between nine common law provinces in getting any precedent out of the Supreme Court of Canada so that a section of the Insurance Act which is in the same words in four common law provinces gets the same interpretation in those four provinces. If you can carry it through to the Supreme Court of Canada, you can reach that position, and this is advantageous, it is desirable. This is the sort of thing the Commissioners on Uniformity of Legislation labour for year in and

year out.

So that that is the reason for that qualification and the way it is expressed in the fact that it is strictly confined to the Province of Quebec, non-constitutional issues and the Civil Code issues.

THE CHAIRMAN: Where do you wish to go with this one, gentlemen?

PROF. MEISEL: I would like to read it and think about it before making up my mind.

PROF. CREIGHTON: This is not entirely new to you.

THE CHAIRMAN: Either of these two possibly.

PROF. MEISEL: No.

PROF. FOX: May I make an observation.

I think if we follow the precedent we followed in reference to treaties, we are following the procedure that Bill Lederman suggested at the last plenary session, which is that sub-committees report to the Plenary on a certain day, and then a month later, after all members have had an opportunity to think it over, a discussion in the Plenary Committee follow what the sub-committees had discussed the previous month, everybody having had a month to think about it. The more I see the discussion develop, I think it is going to be a very wise procedure -- except where there is an isolated instance, like Tom Symons' report, that everybody

could see had no constitutional implications that were so relevant to the whole pattern and could be proceeded with immediately.

THE CHAIRMAN: As a matter of fact, continue it as you see fit, but this seems to be becoming an acceptable practice.

PROF. FOX: We might want to deviate from it in certain instances. I am inclined to think without any firm convictions about it, that this may be a standard procedure we ought to adopt.

PROF. CREIGHTON: It does raise the question as to how you were going to proceed in the present organization of these specialized committees, at what point you are going to introduce this new system of all-purpose committees.

PROF. MEISEL: Then you will have three different reports possible on the same thing which we have to mull over.

THE CHAIRMAN: I think in view of what has happened today, the Policy committee will have to consider at its meeting next week both in terms of what we have in the mill and what we may have up again, what committee structure should operate.

DEAN LEDERMAN: I would think if the new committee structure, if there is to be one, is set up in November, it is what the December plenary session will deal with, and so on.

DR. FORSEY: As I was discussing a while ago,

there is a certain amount of unfinished business still before the Constitutional sub-committee, and I do not think you can simply clobber it until it is finished. It ought to be finished by another month or something of that kind. I don't know.

THE CHAIRMAN: Can we refer this organizational question to the Policy Committee, and I take it we would like to treat the Supreme Court item in the same manner as the international agreement issue, before the next meeting.

Then the third topic was the Federal-Provincial Conference study in Dr. Brady's hands. Did you wish to speak to that?

PROF. BRADY: I can make a very brief statement. I have not done much actually in the matter yet, but I am planning to, let us say, use John Laskin's report, salvage what is useful in it, and re-shape the report on the basis of some investigation that I shall carry out myself. That may take a little time but I think it is probably worth doing. This, broadly, is what I was contemplating.

THE CHAIRMAN: Fine. I think they must be treated then still as work very much in process.

DR. FORSEY: I noticed in Mr. Borin's paper that was sent to us, a suggestion that the Plenary Conferences went back almost to Confederation, which rather surprised me. Possibly this was

merely one further instance of the awful gaps in my knowledge which I had not suspected, but I wondered about it. I wondered if Professor Brady had looked into this and perhaps there was some further deficiency in this paper of Laskin's which escaped my notice.

THE CHAIRMAN: Bill, on the Mesbur study next.

DEAN LEDERMAN: My own feeling is there is nothing more to be done about this document. It provides certain background and that is all it can do, and until we jump into the Fulton-Favreau formula issues yet again, if we have to, this just sets a background. I do not think there is any action called for at this time on the issues with which that is concerned.

THE CHAIRMAN: In other words, we have this material which will be a valuable document to address ourselves to, both in terms of the general enquiry we are going to undertake and in particular when these issues become pressing again.

DEAN LEDERMAN: Yes, because you will remember it related the extent to which unanimous consent was required in making of constitutions in other countries, and the secret sessions and other things, all representing things that are controversial or are going to be controversial again today; but I do not see that there is

anything we can say or do about it today.

THE CHAIRMAN: All right. Thank you. I might report very briefly for the Economic and Fiscal Committee, and then use the balance of the time for the Cultural Committee.

The Economic and Fiscal Committee, it was the view of Mr. Gathercole and I who composed that Committee this morning, that each of the three studies -- the one on Economic Regionalism, the one on Opting-out and the one on Federal-Provincial co-ordination of economic policy -- that a certain amount of editing, perhaps abbreviation and more clarity and conclusion should emerge from those papers.

Mr. Russell, to whom I referred earlier, a new member of our staff, has in the Department been doing a certain amount of preliminary work on them, and I think, George, we would want a lot more polishing up on those papers. None of them are of immediate concern perhaps, but we do feel that some very interesting and useful conclusions and positions will emerge from them, and in the next month we will do a lot of tidying up on them in the department here. Is there anything you want to say?

PROF. CREIGHTON: May I be given titles which correspond with the actual theme? This one says: "Outline of the Acts Respecting Operation of

Certain Established Federal-Provincial Programmes".

THE CHAIRMAN: This is up at (1).

PROF. CREIGHTON: But it doesn't say.

THE CHAIRMAN: It is in the first paragraph, I think.

DR. FORSEY: As Bertie Wooster would say to Jeeves: "Don't you think you could make it a little simpler?".

THE CHAIRMAN: We will dedicate ourselves to simplicity in this area.

Let me turn to the Cultural Committee. Who is going to report for the Cultural Committee?

PROF. BRADY: The Committee had quite an absorbing discussion this morning on a number of things.

First it spent a little time on Tom Symons' report, and it re-affirmed its view of the value of this and what it proposed, and it suggested that if it is possible to convey to the Premier the necessity for action in the near future, it would be desirable to do so. In other words, it is an appropriate time to have action on this, in view especially of Mr. Lesage's visit to the west, in which he referred apparently on some occasions to certain future collaboration between Ontario and Quebec in cultural matters, and referred also specifically, when he got to Ontario itself, to the much better relationship that seemed to exist

between Quebec and Ontario as to Quebec and other provinces.

Now, this is a matter that we have to leave, I think, with the Chairman, if he gets an appropriate opportunity, as it were, to convey this view that appropriate action on the Symons report can be taken, he should avail himself of that opportunity. The Committee certainly was unanimous that now is an occasion when speed, as it were, would be advantageous.

There were various other points raised. It was suggested, apropos actually of this suggested cultural arrangement between Quebec and Ontario, that if it were possible for the Premier to visit Quebec some time and perhaps speak about these cultural relations, if he declared, for example, that an arrangement had been made, it would be a very useful thing for him to follow up that with some utterance to that effect in Quebec itself. That is, again, a matter that we would not formulate in any customary committee a recommendation, but has to be left to, let us say, communication through other channels.

Then there was a little discussion of the Leduc report, and there was a suggestion from Mr. Fox that any remarks on it or comment on it, which other members of the Committee outside the sub-committee on Cultural matters, felt inclined

to make, would be useful, because it was not regarded as a final document but would be subject to revision. Consequently suggestions would assist that revision.

It was also suggested that it would probably be necessary to have a look at the Jones report, or at least those sections of it which seemed to be relevant to our investigations. A good deal of it is apparently not closely relevant and rather technical in the field of municipal affairs, but the Committee thought that the problems involved, or some of the problems touched upon by the Jones report, were problems that come within our purview very definitely. In other words, the whole question of Ottawa as a capital city in the context of our present federation, with its dual cultures and its likelihood of stressing the significance of dual cultures, was related to the whole issue of the government of Ottawa.

Now, the Committee is well aware of what was stressed, I think, in the last meetings of this Committee, this general Advisory Committee, that the issue is a very complex one, complex in terms of law, culture, economics, and more investigation of it would be important. It was suggested in the committee, Mr. Meisel might, in a very informal sort of way (it has to be informal) try to find out what has been done or is being done by the

B & B Commission, and report what is being attempted to assist us in our inevitable examination of this question of the capital. This enquiry by Mr. Meisel, incidentally, must be held as strictly confidential, since the B & B Commission regards these programmes of research as matters not necessarily for public discussion. That is the right way to put it, is it, Mr. Meisel?

Then another matter that we had a little discussion on was Mr. Fox's study of the teaching of French within the school system of Ontario. Mr. Fox has not had any time to do much on this actually up to the present, but hopes in the New Year to do so. It will involve a study of the facts, gathering of the facts, the problems involved, and any question of policy that may seem appropriate in the light of the facts and problems.

Then another point that a little attention was given to would be use of French in departments of Government in Ontario. Now, Mr. Stevenson and some people under his supervision in the department have been gathering some information on that, and acute problems actually arise in getting the information itself, but a survey or a report on the matter will be completed in the near future. Would that be an accurate way of stating it?

MR. STEVENSON: Fine.

PROF. BRADY: Another matter that the Committee

addressed itself to, that they considered perhaps one of the most important matters that it discussed this morning, that was the necessity for stimulating the development of translators for government offices -- indeed for stimulating the development of translators in general in a society and a state where the stress is going to be laid more emphatically than in the past on the bilingual and bicultural aspects of the state's life.

For example, in the Ontario service you have perhaps a sorry situation, where there are very few capable of translating where of course there has not been perhaps a great need or urge in the past, but where there will be in the future, especially perhaps in this sphere of municipal affairs and the relationship between the Department of Municipal Affairs and some of the municipalities where there are large numbers of French speaking people. The Committee was convinced that there was a need of encouraging, as it were, or fostering of training in translation, which is a technical matter really, and is not simply a matter of learning French but is a matter of learning French with an orientation to what happens in government and to stress the special kind of language that is used in government circles.

Perhaps there might be the suggestion made

that there should be some kind of crash programme to further instruction in the technicalities of translation, in order to increase the number of translators.

This matter of translation is also related, of course, to the complicated mechanisms that are linked up with instantaneous translation, which again is a matter that is going to become more relevant in our society. It was suggested, for example, that some institutions like the Ryerson Institute might perhaps be interested in devoting attention to that matter and possibly doing something about it. The Committee is certainly emphatic on the necessity of this matter being considered.

It did not think that what suggestions it had to make this morning were thought of in relation to all the problems involved, but it considered that this general Advisory Committee should have a look at this whole matter of translation, development of translators, instantaneous translation, and so on. This has significance beyond the range of government activities and relations, because business concerns are also interested themselves in getting translators, and for some operations perhaps instantaneous translation techniques and mechanisms.

That is a very hasty review of the kind of question that the Committee discussed, and I have no doubt members of the Committee may have

addenda to add to what I have said.

THE CHAIRMAN: May I just ask about two particular points. There was a study under Professor Meisel and a study under Father Matte. Was there any report on those?

PROF. BRADY: I did not touch really upon that, and that is an omission, I think, in my hasty report. Would you like to say anything?

FR. MATTE: I mentioned that I did not find time much to work. We first of all studied the report of Mr. Fox, and in the studying of this problem a few new ideas came into our minds. For instance, maybe the importance of setting up somewhere in Ontario (it may be Ottawa, Sudbury) a kind of "Institute of Canadian Culture" things like this that maybe we could adopt further, and maybe next month I could produce a short paper, with the Chairman, and I imagine this should be of some importance and these problems should be tackled to a deeper degree.

THE CHAIRMAN: John, did you have anything?

PROF. MEISEL: The study that I was asked to do was an analysis of the briefs submitted to the Royal Commission on Bilingualism and Biculturalism. I have a girl working on this during the summer and she examined every brief which was submitted to the Commission from Ontario and then from Quebec. She was not able to go through the rest

of them. For each brief she filled out a sheet, in which the organization or individual submitting the brief was listed, the nature of the recommendation and a summary of the recommendation, and also which sector of the government of Ontario or the life of Ontario is most touched by it.

In other words, we have on these sheets, if you want to look up, say, recommendations that have been made that affect the Department of Municipal Affairs, we can simply go through the sheets and dig this material out.

In addition to doing this, she wrote a summary of those briefs for each of the provinces.

The Ontario book is finished -- well, they are both finished. I just finished going through the Quebec one the day before yesterday, and we should have a final typescript of the summary in our hands, I would think, within the next couple of weeks.

Now, there is a very important policy question, I think, that arises again from this study. I do not know how many briefs there were altogether, but there must be about 250 sheets of paper, each of them devoted to one brief, and this, I think, is going to be very useful information which should be stored here.

We could actually, if one wanted, one could put this on punch cards fairly easily, if it is

going to be used, but I do not think there is any point going to any great trouble putting this on cards unless the Committee feels that some use can be made of them. I would think that we won't be able to give you a decision on that point until we have seen the summary of the briefs.

THE CHAIRMAN: I think we should tape the summaries, and I envisage considerable usefulness from storing this information. Of course we are about to establish a vast statistical pool, so there will be no trouble at all.

PROF. MEISEL: Are you going to have a computer?

THE CHAIRMAN: Oh, yes.

PROF. MEISEL: That is excellent.

THE CHAIRMAN: Not necessarily in this building, but we are going to have a computer in our statistics branch.

PROF. MEISEL: This raises another problem arising out of this. It is a general one, and you may not want to discuss it today.

I think we ought to start thinking very soon about increasing our own research papers. If you are going to make maximum use of them, they should be increased, and probably if you are going to start a computer this is one of the useful things a computer can do.

THE CHAIRMAN: Life is getting too complicated.

PROF. MEISEL: Whether you want to use the computer or not, and this may not be the scale of operation that demands it, I think an increase is very important.

THE CHAIRMAN: I think this conforms very much to our general operation.

PROF. CREIGHTON: Mr. Meisel comes from a Commission which has how many millions, is it, to work with?

THE CHAIRMAN: We are not quite as well endowed, you know.

PROF. CREIGHTON: So far it has only produced this little report, but there should be enough for vast quantities.

THE CHAIRMAN: Gentlemen, it is now 1.30. I know some of you wish to leave. I do not wish to do injustice to the Committee report. I take the meaning of the first recommendation and I think you know I will follow that through to the best of my ability.

I should report that following the last meeting the recommendation went in in explicit terms as a unanimous recommendation of the Committee. I saw the Premier. I think he was obviously impressed by the report and by the sentiment. I am sorry to say I cannot report on his final decision on that, but I will just follow through as instructed here. The others seem to be still,

I am afraid, work in progress and some new suggestions which we must follow on, and therefore all of this seems to converge once more upon the Policy sub-committee, which we hope will meet next Thursday morning at 9.30.

I think again the Policy sub-committee will want to hammer out the procedure that we follow, both in these papers under way and in the new format suggested. I note that we have, happily, a little longer breathing spell in that five weeks elapse between now and the first Friday of next month rather than the four weeks we have had this time.

I was asked by Prof. McIvor, and I feel I must even at this late hour, to lay before you his personal predicament on Fridays for this year, when he seems to find that his seminar work confines him to McMaster. I gather it is extremely doubtful that he can change that. I did, of course, point out when we canvassed this subject again, we started off once again on the merry-go-round of who could come this day and that day. I presume that most people have set up their year, so to speak, with a view to the third Friday in the month being the suitable day. I really find this rather awkward, to be fair and proper in this situation. It seems important for us to have some statutory date here, because life is impossible otherwise. Even though we cannot all come, I am tempted to say,

at the risk of being arbitrary, I think you agree that we should adhere to this practice.

Since Prof. McIvor has agreed to join the Policy sub-committee, we should try to arrange our meetings of that group to suit his convenience as well as the other members of the Committee, and to use his knowledge as much as possible through that medium. It may be that he can in fact alter or miss his seminar on important plenary meetings.

Is it agreeable then that we should aim at Friday, November 19th for our next meeting?

I presume it will begin with plenaries and, depending upon the judgment of the sub-committee next week, then go on with sub-committees brought forward perhaps to December, something of that form.

--- The meeting adjourned at 1.35 p.m.
